

Minutes of the Regular Meeting of the Mayor and Council of the City of South Tucson, Arizona, held Tuesday, March 16, 2021, at 6:00 p.m. at the City of South Tucson Council Chambers, 1601 South 6th Avenue, South Tucson, Arizona.

Staff Present: Veronica Moreno, Interim City Manager
 Bobby Yu, City Attorney
 Lourdes Aguirre, Finance Director

Council Present: Bob Teso
 Herman Lopez
 Paul Diaz
 Akanni Oyegbola
 Rita Rogers
 Robert Romero

Others: Dennis Luttrell
 Steven Coleman (via Zoom), Pierce Coleman

Mayor Teso called the meeting to order at 6:00 p.m., and led the Pledge of Allegiance.

ITEM #03 – MISSION STATEMENT

Councilwoman Rogers read the Mission Statement.

ITEM #04 – ROLL CALL

All members of the Council were present, except for Councilwoman Romero, who was excused.

ITEM #05 – CALL TO THE AUDIENCE

Mayor Teso: We're going to insert with, not on here, but we're going to have a Call to the Audience. If anybody wants to come up, you have three minutes to do that. Thank you.

Mr. Luttrell: Good evening, Mayor and Council. It's nice to see everybody's face again. And I'm delighted to be here. I just couldn't help but notice that ...

(Background conversation)

Mr. Luttrell: ... (inaudible) ...

(Background conversation)

Mr. Luttrell: ... (inaudible) going here. That something like this Zoom, like the Zoom Council meeting (inaudible) ...

(Background conversation)

Mr. Luttrell: ... for example ...

Male voice: I don't work for the City. I, ...

Mr. Luttrell: ... (inaudible) these guys ...

Male voice: ... I'm here to be appointed to Tucson Pima ...

Mayor Teso: Hold on.

Male voice: ... Historical Commission, represent South Tucson on the Commission, replacing Patsy Waterfall.

Ms. Moreno: Excuse me. Can you hear me? Hello?

Female voice: I used to sit on that Commission.

Ms. Moreno: Go ahead.

Mr. Luttrell: Thank you. But anyhow, I ...

Male voice: (Inaudible) ...

Mr. Luttrell: ... (inaudible) ...

Male voice: ... (inaudible) ...

Mr. Luttrell: ... forty-foot ...

Male voice: ... (inaudible) ...

Mr. Luttrell: ... (inaudible) remember where the old three billboards was over on, by the 4th Avenue gas station? There used to be (inaudible) billboard. And I put together a, a panel that says "Be Happy Don't Worry" and "Welcome to South Tucson". And it says, and it's Welcome to South Tucson, Be Happy Don't Worry.org was gonna be a website that I was gonna put on, put things on for the City. And it would be real nice if we could do a Zoom link to the Mayor, to the Council meetings so that people looking at the City would come into the City, can get to know what the City's about and, and come up with, meet with the Council and

get to know the City of South Tucson. So, what I'm requesting is that you consider putting on the agenda an item to, to have Zoom meetings with the public to include them in future Council meetings. And I would ask you that if it's possible to be put on the next agenda. Thank you.

Mayor Teso: Thank you. Okay. No one else here. We're moving onto Item #05.

ITEM #06 – APPROVAL OF MINUTES – REGULAR MEETING, MARCH 2, 2021

Mayor Teso: Are there any corrections or changes?

(No corrections or changes from the Council)

Councilwoman Rogers: I wasn't here this meeting, so I can't move 'em.

Mayor Teso: Hearing none, do we have a motion?

Councilman Romero: (Inaudible).

Vice-Mayor Lopez: Second.

Mr. Yu: Mayor and members of the Council, Councilman Romero, is that a motion to approve the March 2nd, 2021 minutes?

Councilman Romero: (Inaudible) motion to approve. I give 'em the motion.

Mr. Yu: Okay.

Councilman Romero: He approved, he second it.

Mayor Teso: Mr. Romero.

Councilman Romero: Yeah.

Mayor Teso: Ms. Rogers.

Councilwoman Rogers: Abstain.

Mayor Teso: Okay. Mr. Diaz.

Councilman Diaz: No.

Mayor Teso: Mr. Oyegbola.

Acting Mayor Oyegbola: Aye.

Mayor Teso: Mr. Lopez.

Vice-Mayor Lopez: Yes.

Mayor Teso: Aye. Motion carries.

Mayor Teso: Moving onto, we're gonna change the agenda a little bit, so we're gonna go to Item #08.

ITEM #08 – DISCUSSION AND POSSIBLE APPOINTMENT TO TUCSON PIMA COUNTY HISTORICAL COMMISSION

Ms. Moreno: Good evening, Mayor and members of the Council. Thank you all for being here this evening. I don't know if those that are on Zoom can hear me. Can you hear me? Okay. So the purpose of us connecting to employees and other members in the community through Zoom, Mayor and members of the Council, is we have an item on the agenda that I have brought to your attention is we're going to be having a training on the topic of hostile work environment. And I asked our Department Heads, as well as our front line supervisors to attend. So, the meeting participants were invited to participate through Zoom. However, this broadcast is not being, it's not a livestream, so members of the public cannot view our meeting. We currently don't have the capability as of yet. We are very fortunate that we are able to purchase this TV, get the Wi-Fi connected in this room, but maybe later on we can be able to have the Wi-Fi connectivity to have a streamed meeting. And if any members of the community would like to see, to watch the livestream, they can do so. I don't know what the process is for Call to Audience during livestream, and things like that, but once we get to that point, we can look into it. But I think it would be good to eventually get, you know, track along with other communities that have livestream. So, we'll look into it, Mr. Luttrell, but thank you for the idea. So, the item on the agenda (inaudible) this evening is the discussion and possible appointment to the Tucson Pima County Historical Commission. If you look at the item in your packet regarding the appointment to the Pima Council Historical Commission. This Commission advises the governing body of the County and the City of Tucson on historical activity and sites to organize historical activities in the community. The membership criteria for this advisory board is a total of 23 members; 10 that are from Pima County; 2 from each supervisorial district; 12 from the City of Tucson; and one from the City of South Tucson. As of now, there is a vacancy for representation on this board, and it's been vacant since 2017. Mr. Klinkel, who was the Director, Mr. (inaudible) Klinkel was the Executive Director of the Commission, has recommended and nominated Carlos Lozano, who is with us this evening. He is a public and social historian who works to document the everyday history of our community. Although he does not live in the City of South Tucson, which is not a requirement to be on this board, he, at one time, served on the Commission, representing Tucson Ward 5. He's an excellent communicator and will keep the Mayor and Council updated and informed on opportunities for partnership, funding, planning, and the activities of the Commission. In your agenda, attached is Mr. Lozano's biography outlining his experience in advocacy as a former of the Tucson Pima County Historical Commission. And staff recommendation is to appoint Mr. Lozano to the Board. He is with us here this evening, if you would like to add to what I just mentioned.

Mr. Lozano: There's really not more to add except for that it would be an honor and a privilege to serve and the Commission doesn't have much power, but that's, that's, part of our job is to, is to really look for opportunities that might exist and just make sure that South Tucson is getting, is getting the same opportunities that the rest of Tucson is getting. So, and I've always liked South Tucson and so, you know, like I say, it would be an honor and a privilege to serve.

Councilwoman Rogers: Mr. Mayor, I have a question. Of our 5,700 population we have no residents in South Tucson to represent us?

Mayor Teso: I, I think the Commission, basically, it's my understanding when I spoke with Mr. Klinkel a couple of years ago, I think almost a year, it's over a year ago, anyway, he said that usually they want a person that has the skills, typically that has some kind of a background having been interested in history and things like that. So, works a ...

Councilwoman Rogers: Well, that was my question. Do we have no skills in South Tucson?

Mayor Teso: My, as far as I know, I hadn't no idea about anybody in the community that has those skills. Do we have any other discussion?

(No discussion from the Council)

Mayor Teso: Do we have a motion?

Acting Mayor Oyegbola: Mr. Mayor, I'd like to make a motion to approve the appointment of Mr. Carlos Lozano to the Tucson Pima County Historical Commission.

Councilman Romero: Second.

Mayor Teso: Okay. If there's no more discussion, we'll go to a vote.

Mayor Teso: Mr. Romero.

Councilman Romero: Yes.

Mayor Teso: Ms. Rogers.

Councilwoman Rogers: No.

Mayor Teso: Mr. Diaz.

Councilman Diaz: Abstain.

Mayor Teso: Mr. Oyegbola.

Acting Mayor Oyegbola: Aye.

Mayor Teso: Mr. Lopez.

Vice-Mayor Lopez: Yes.

Mayor Teso: Aye. Motion carries.

Mayor Teso: Congratulations, Mr. Lozano.

Acting Mayor Oyegbola: Thank you, sir.

Mr. Lozano: Thank you very much.

Mayor Teso: Hope to meet you one of these days. Okay. Moving onto Item #09.

ITEM #09 – HOSTILE WORK ENVIRONMENT TRAINING; LAW OFFICES OF PIERCE COLEMAN

Ms. Moreno: Yes. Thank you, Mayor and members of the Council. The next item on the agenda is a training on Hostile Work Environment. And this is gonna be conducted by Mr. Steve Coleman, who is with the law offices of Pierce Coleman. As H.R. Director, I contacted Southwest Risk so we could start to, you know, get the City on the right path with training. And I thought that for starters, Hostile Work, the topic of Hostile Work Environment was very important, not only for our employees, but also for our elected officials, especially our front line supervisors and our department heads. It's really important that as employees, as elected officials, that we make sure that we always take into consideration how we are, act with one another, the way we treat one another, that we're always professional, that there's no, always, you know, professionalism in the way we, we talk with, with each other, especially when we're out in the public. I think sometimes, you know, we get comfortable and, and we've all been working together for many years, but needless to say, you know, jurisdictions and elected officials and department heads and staff, you know, we're still held to a high regard as officials and I think it's important that all of us get training just to, just as a refresher course to let us know how to recognize hostile work environment, how to approach it, if need be, and to make sure that the City is doing its due diligence with employees and elected officials on this topic. With that, I'll turn it over to Mr. Coleman.

Mr. Coleman: Good evening, everybody and thanks for inviting me to address the Council and staff today. Just a little bit quickly about myself, so I am an attorney with the firm Pierce Coleman. I've practiced in the area of employment law. I've been practicing for about 18 years now. For the last 13 years, I have, my firm has been employment counsel for the Arizona Municipal Risk Retention Pool, so we represent about 75 different cities and towns in the area of employment law. So, it's been a pleasure to work with some of you at South Tucson. I look forward to speaking with you today. So, I'm just going to pull up my PowerPoint slide and the slides here, and share my screen, if you bear with me for one second. So today, I'm gonna focus on work place harassment, hostile work environment and, and with a big emphasis on sexual harassment because that's the most common type that we see. And just to begin with, I want to talk about why harassment training is something that is important. It's something that elected officials and that supervisors and managers should be aware of. And first of all, it's against the law. And there are laws against discrimination and harassment that we'll talk about. And so, harassment can result in a legal claim and liability. And I wanna talk just a little bit about lawsuits. If all you knew about our legal system came from watching the prime time legal shows, you'd probably think a lawsuit gets filed on Monday, goes to trial on Wednesday. Unfortunately, our legal system doesn't work quite that efficiently and so on average, a single plaintiff harassment discrimination lawsuit takes about two years to go to trial from the day that it was filed. And then whatever party it is that loses a trial, usually files an appeal to a higher court and an appeal can take another two years to resolve. So, if the City were to have a harassment lawsuit, you could be living with that lawsuit and paying legal bills and dealing with the disruption for two to four years before it's finally resolved. There's also a very high cost to defending against these types of claims; the cost of defending against a harassment lawsuit can be \$150,000 to \$200,000 throughout that process. And that's assuming that, you know, the City's (inaudible) prevails. If there were to be a jury verdict against the City, there could be additional damages, and there could be liability to the other side's attorney's fees. So, there is a significant, you know, cost from a legal perspective to harassment and that's why it's important that people have training and education because many harassment claims are preventable. If somebody steps in early when they see something that looks like inappropriate conduct or behavior and fixes that, and takes appropriate action, you can stop things before they escalate 'cause usually, we don't see people file a lawsuit until they become desperate and they feel that their employer is not doing

something to protect them and they really have no choice, and then they have to go outside of the work place and they have to go to a government agency, like the Equal Employment Opportunity Commission, or go file a lawsuit in court. So, usually, there are opportunities if the employer sees something and recognizes that there's inappropriate behavior, to stop it before it gets to the point of litigation. Harassment is also against City policy. It's damaging to the City's reputation. It's damaging to the work environment. There have been surveys that just show that a lot of times, even if people don't complain about harassment, they'll just quietly leave and sometimes good employees are leaving and there's turnover. Or, that harassment is bad for workplace morale. It's bad for productivity. It results in more absenteeism. It results in just an unpleasant place to work. And that's something that we want to make sure we're addressing, if that exists 'cause we want everybody to come to work and be, you know, feel happy, rewarded, and respected in the work environment. And then harassment is something that managers and supervisors have a responsibility to monitor and to respond to and prevent. We're gonna talk a little bit more today, but people who are on the front lines, supervising managers, they're in the best position to observe if something looks like it's not right. If you see somebody who looks like they're harassing or mistreating a co-worker, you have the first and probably best opportunity to say something or do something and try to, to stop that situation before it gets any worse. Let's talk about what harassment is. Harassment is a type of discrimination. So, discrimination is defined as treating people differently based on a protected characteristic. I'll have a list in a minute, but protected characteristics are things like your gender, your national origin, your race, maybe a disability, your age. But treating somebody different because of a characteristic is discrimination. And harassment is just a form of discrimination. Harassment is when the person is mistreated, usually it's subjected to poor treatment, whether it's verbally or physically because of something about their characteristics. Now, the law makes it illegal to discriminate or harass, discriminate against anybody with respect to all these categories here; applications, you know, it's illegal to discriminate in hiring. That means, you know, looking at somebody's application and seeing from, you can tell how, what their age is and making a decision based on their age or, making a decision on a candidate based on their race, or a male or a female, or any of these protected characteristics. Hiring discrimination is unlawful. Discrimination in promotion decisions, compensation decisions, paying somebody differently than another person, based on a protected characteristic, discipline, discharge. All those things are to be done on a neutral basis without respect to anybody's protected characteristics. But it's also, the law says, illegal to discriminate based on other terms and conditions of employment. And this is where harassment comes into play as courts have said when somebody is being harassed in the work place, they're not being treated equally with respect to the terms, conditions (inaudible) employment. They're forced to endure bad treatment that other people don't have to put up with when in the work place. And so that's why harassment is a form of discrimination that is illegal under the law. I want to talk about what the, let's talk about what the protected characteristics are. So it is illegal to discriminate or harass somebody based on any of the following: So race. Color. Color can be skin color. There can be, it can be skin tone. Somebody of the same race could discriminate against another person because they're lighter or darker in terms of their skin color. National origin. Age only protects people who are age 40 and older. There is no protection for discriminating against somebody because they're too young, but discriminating against somebody or harassing somebody because they're 40 or older is something that is unlawful. Religion. Sex. Disability. Pregnancy. And then genetic information. Genetic information is the newest addition to the law. Most of these protections were enacted in 1964. But recently, not too long ago, Congress added genetic information because now we have the technology in medicine to be able to, you know, swab somebody's cheek and then get their genetic information and tell, perhaps, if they're pre-disposed to certain diseases or

what their medical future might look like, or tell more about their genetic makeup. Congress was afraid that employers would start, as part of the hiring process, requiring DNA sample and then, perhaps, not hire somebody if you can see that that person is pre-disposed, for instance, to develop cancer or some other chronic or serious illness. And so because of that, it's, employers are not allowed to request or test for any type of genetic information. So that's, that's the newest category here. So, let's talk a little bit about now sexual harassment. Now, as I said, harassment is illegal based on any of those characteristics that we just talked about. But the most common claim that we see is for harassment based on sex. There are occasionally other claims like racial harassment, or harassment on national origin or one of those other characteristics. But definitely the most prevalent is sexual harassment, as we've seen in the last few years with the Me Too Movement. This has been a real hot topic and we've actually seen a real increase in the number of lawsuits that have been brought alleging sexual harassment. So, there are two types of sexual harassment. One is called quid pro quo and the other is called hostile work environment. Now I want to talk first about what quid pro quo is and that's Latin for this or that. This is the type of sexual harassment that occurs when somebody who is in a position of authority, such as a supervisor or a manager uses that authority to try to pressure somebody into a sexual relationship. So, I like think of this as sort of like the Harvey Weinstein type of harassment. So this could be a supervisor saying, "If you want the promotion, you know, you have to sleep with me." Or it could be somebody, manager, punishing somebody if the manager asks a subordinate out on a date and gets rejected and so gives that person a negative performance evaluation, or starts to treat them poorly. So, it's any time somebody is using their power or authority to, to try to, you know, further their goal, agenda, in terms of having the other person become involved in a sexual relationship. It's because of this type of claim that most employers generally discourage supervisors from dating their subordinates 'cause there's always a risk when a supervisor dates a subordinate that the subordinate may feel pressured to enter into the relationship. It's possible that the relationship could be totally consensual but it could end badly and the subordinate could make an allegation and accuse the supervisor of having coerced him or her to enter into a sexual relationship. There's also issues when there's relationships like this because other employees may perceive the subordinate as receiving favoritism, being treated better because they're in a sexual relationship with the boss. And so, there are lots of different potential complications when there are relationships between supervisors and subordinates. And so because of this, you know, like I said, most employers discourage them. Best practice is that people who are in a relationship with a subordinate should disclose that. I mean we understand that we probably spend more time at work than almost anywhere else and so relationships will develop, but if you disclose a relationship between a supervisor and a subordinate, then it can be addressed by Human Resources and perhaps steps could be taken to transfer somebody so people don't report to each other any more. So you can kind of eliminate that possible coercion. There are some employers that will have, when somebody has disclosed a relationship, will have both parties sign what's called a "Love Contract". And so this is a document where both employees sign off and acknowledge that their relationship is consensual, that they understand the policy against harassment, and that they will immediately disclose to the employer if they feel that they're being harassed or coerced. I have a sample here that I, that I pulled up. It's very romantic. You could probably print it on a Hallmark card. It says, "We've entered into a personal relationship outside of work that is completely voluntary and consensual. We've received copies of the policies regarding sexual harassment and workplace conduct, and agree to follow these rules, including refraining from any displays of affection at work or work-related events. We agree that there has not been, nor will there be any (inaudible) of sexual harassment or anything relating to our relationship. We understand," and it goes on and on and on with all these disclaimers. So, that's another way that some

employers address the issue of romantic relationships between supervisors and subordinates, but it's something definitely to be aware of because it can turn into a potential claim or allegation of quid pro quo harassment. So, the other type of harassment is what's called hostile work environment harassment. And so this is probably what we see most commonly in terms of claims in the work place. And hostile work environment claims are what happens when somebody makes unwanted comments or engages (inaudible) towards another employee, based on that employee's protected characteristic and that conduct interferes with the person's ability to do their job. So, if I'm, you know, constantly making sexual advances to somebody to the point that it's, it's interfering with their ability to do their job and they want me to stop, that could rise to the level of a sexual harassment claim. If I'm constantly making degrading comments, or threatening, or otherwise mistreating somebody based on a protected characteristic, it can be a hostile work environment claim. Now a hostile work environment claim is not meant to mean that you can't say or do anything in the work place, you can't make a single comment. So, it's not meant to be that if you say to somebody like, "I think you look nice today," they can go file a federal lawsuit and say, you know, "This is a hostile work environment." It's meant to be when there's repeated or severe conduct that just keeps going, that won't stop, that it rises to the level that somebody can't really do their job because of it. That's when it becomes illegal. So, that's not to say that it's okay to make a few inappropriate comments as long as you don't make enough for it to be illegal. But what this means is there's a little bit of a cushion between what a policy employ-, of course, policy might allow and what becomes unlawful. So, one or two comments could violate a personnel policy but not be illegal. And that gives employers the opportunity to sort of enforce their policies and shut things down before they rise to the level of a lawsuit. Now, I do want to talk a little bit about what is not a hostile work environment because this term gets thrown around often by any employee just doesn't like their job, or thinks their boss is a jerk. So, people say, you know, "My boss wouldn't grant my vacation request to take off two weeks during the summer. And so I'm working in a hostile work environment." Or, "My employer won't let me bring my dog to work. I'm working in a hostile work environment." Or, "My boss doesn't say please and thank you." Those types of things might be an indication that work place morale is not great and it's not, and that people aren't happy in the work environment, but that is not illegal conduct and it's not what a hostile work environment is under the law. Again, hostile work environment is going to be when it's repeated conduct targeting somebody because of a protected class; their sex, their race, their age, their religion, their disability, that goes onto the point that it interferes with their ability to do their job. So, let's talk a little bit more about each of these requirements of what somebody, what makes a hostile work environment. So, it has to be based on somebody's sex, so sexual harassment, hostile work environment. First, the conduct has to be directed at somebody because of their sex, it has to be severe or pervasive, and it has to be unwelcome. So, I'm gonna talk about each of these things. So when is, is, let's talk about (inaudible) conduct is because of somebody's sex. Now, this may seem pretty obvious, but there are actually, there are some interesting scenarios here that have come up in cases. So, there are, somebody propositions somebody; asking 'em out, or asking 'em to sleep with 'em. That would be conduct because of sex. Sexual remarks. It can be, not sexual advances, but could be telling, telling dirty jokes, jokes that are sexual in nature. That could be (inaudible) conduct because of somebody's sex. Hostility to members of an opposite gender. So this is conduct where, not where somebody's looking to get into a sexual relationship with somebody, but it's when somebody treats members of one sex worse than the other. So, let's just say, for instance, you have a male supervisor who's good buddies with all of the male employees, gets along great with them, but is, you know, screams and yells at the female employees and treats them poorly. That would be considered harassing conduct because of sex because this person is treating members of one group worse than members of the

other group. Now, gender stereotyping; so this is an interesting category. I want to sort of give an illustration here. There was a case on this issue that went all the way to the United States Supreme Court. There was a female employee of the accounting firm Price Waterhouse. And she was an outstanding accountant, did great work, and she was up for a promotion. And there was a committee that made decisions on promotions and the committee rejected her. And the feedback they gave her was that, you know, she did a fantastic job, they had no complaints about her work. But they thought she wasn't feminine enough. They thought she acted like one of the guys. She was too macho. She didn't dress in a ladylike manner. She would curse sometimes, and so they thought that they wanted her to be more feminine, and that was the reason why they did not promote her. And so she brought a discrimination lawsuit and said, "You're treating me differently because I'm female." And Price Waterhouse (inaudible) female has to do with we don't like the way that she behaves and the way that she carries herself. And the Supreme Court said that gender stereotyping is, can be a form of sex discrimination or sex harassment. So that means it is illegal to harass or discriminate somebody if they're a female and perceived as being too masculine, or not conforming to a stereotype of how you think a woman should behave or dress. And the same thing is true if you had, for instance, a male who was more on the feminine side, it would be illegal to harass or to discriminate against that person because they don't conform to certain gender stereotypes about how they should look or act or behave. The next type of conduct that can be because of sex is same-sex harassment. So, there's a couple different types of same-sex harassment that you can see. Sometimes, it's rough-housing or, I, I've had cases where I've seen where, you know, maybe in the, say one of the public safety part of the organization or people who sort of like to haze new people who come in. And so it might be only a group of men, or only a group of women, but by hazing the person, they have, you know, some rough-housing, some teasing, some, you know, some of the, maybe derogatory nicknames or things that are directed at somebody. Just because it's a group of guys or, or a group of women, and it's not somebody of the opposite sex, doesn't mean that it cannot be harassment. It can be. Or, or anything that's sexual in nature. A group of guys sitting around telling sexually explicit jokes, if one of those people who's listening to those jokes doesn't want to hear that and is offended by it, and it's conduct that continues and, repeatedly, that can be a sexual harassment claim. So, there is no such thing as sort of a safe space, sort of locker room talk type, type of scenario. There's no such exemption under the law that says just because it's a group of guys or it's a group of women who are sitting around joking or chatting, that there cannot be harassment. There can still be harassment even when it's only members of a, of one sex are present, if somebody is offended by the conversation. And then sexual orientation, I had a question mark here. That was a question that was, until recently, unsettled under the law whether or not it was illegal to, to discriminate or harass based on sexual orientation. This is something that went up to the U.S. Supreme Court just this past year. And the U.S. Supreme Court said that discriminating against or harassing somebody based on sexual orientation is discrimination because of sex. In a way, it's almost like gender stereotyping because the expectation or the stereotype is that a male will have a female significant other or partner, and vice-versa. And so somebody who is male and has a male partner (inaudible) female has a male partner may be treated differently because they don't conform to normal stereotypes. But it is seen as a form of, that could be discrimination or harassment because of sex. This is one of the most important slides that I want to talk about today. So, if there's one thing that you remember, this, this is one of the most, the things I hope that you do. And that is that intent is, is irrelevant to whether or not somebody has been harassed. What I mean by that is if somebody, if I tell, you know, dirty jokes to people because I think they're hilarious, and I think I'm gonna make them laugh and, and, you know, make them happy, and I'm trying to brighten their day, and somebody's offended by my, my sexually explicit jokes, and it doesn't stop, they're gonna be a liability for harassment,

regardless of the fact that I never meant to hurt anybody's feelings. I never meant to (inaudible) anybody. There doesn't have to be an intent to harass somebody for there to be liability. So, so even something that you think like you're being funny, or you're forwarding an email that you think is a hilarious joke, but it's a little bit, you know, sexual in nature and, and you say, you know, "Well, I didn't mean anything by it. I never would have sent it if I thought this person's offended," that's not a defense in any way. The only thing that matters to determining whether or not there has been sexual harassment or another type of harassment is how the person who is experiencing the conduct, how they perceive it. And so, if the person who is listening to that joke, or reading that email, or whatever it is, or somebody brings in risqué photos and, and shares them around the, the work place, if the person who is looking at it is offended by it, then there's the potential for a legal claim and for liability even if never intended to upset anybody. Now, like I said a little bit earlier, is that hostile work environment, at least in terms of what may (inaudible) in court and what can end up in legal liability, is not meant to create a liability if somebody tells or makes one comment or tells, you know, one joke. It's meant for when the conduct is severe or pervasive. And so let's talk about what that means. So, what the courts will look at is the nature of the conduct, the frequency, and how severe it is. Now the more severe it is, the less frequent it has to be. The most serious things that happen in the work place are those that involve actual physical contact. Physical contact is very high on the severity scale, unwelcome physical contact. Matter of fact, the only scenario where I can think of whether a single incident could create liability is when it was, would be something like, you know, groping somebody or sexually assaulting somebody. One incident of that nature is severe enough that you could have liability for a hostile work environment. Verbal contact, verbal conduct on the other hand, is less serious. So, comments, comments usually you have to have repeated incidents because they're not as serious as physical contact. Emails, I would put as low on the severity scale because emails you don't even have any face to face contact. You know, someone, they could open an email, start reading and just say delete, or they can decide not to open an email 'cause they see the subject and they, they could see it's not work-related. So, when you're talking about emails or perhaps text messages, it's usually gonna require a pattern of something that goes on over, and over, and over to where it gets to the point that there may be a legal claim of a hostile work environment. And again, what I'm not telling people is that this is how much you can get away with. The reason I tell you this is because you have an opportunity to intervene and to stop this type of conduct before it reaches the level of severe or pervasive. So, this means there is some period of time where you recognize what's going on and you see that it's inappropriate, and you stop it. You can avoid a situation that otherwise could have escalated into a legal claim. Now I want to give you an example, a little bit, about a case that was in the 9th Circuit, I think a couple years ago. The 9th Circuit is the Appeals Court that hears cases that come out of Arizona, California (inaudible) other states. In this case, the case was Zetwick v. County of Yolo. And this was a case in which a Corrections Officer brought a lawsuit for sexual harassment and she said she was harassed by the Sheriff. And said, and what she alleged was that the Sheriff hugged her more than a hundred times over the course of eight years. And that he kissed her once on the cheek. And this case went to, it was filed in, in trial court and the trial court threw out the case and said, this doesn't, you know, while this isn't considered acceptable behavior, I don't think this rises to the level of actual severe pervasive harassment. And so, the plaintiff appealed the case and went up to a higher court, the 9th Circuit. And the 9th Circuit took a look at it and said, "Look, the volume of hugs here, a hundred of them, was enough that maybe when it started it wasn't harassing, but it became so frequent and it continued, that this could rise to the level of harassment and that a jury should hear the evidence and decide if they thought that this was a hostile work environment." And the court said that in deciding whether or not hugging can be harassment it's important to think about is the hug coming

from a, a supervisor or a manager, because that could be sort of more intimidating and somebody who doesn't want to be hugged might be reluctant to say no if it's their boss that (inaudible) and they don't want it to happen. (Inaudible) people of different genders, you know, what type of hugging is it? Is somebody holding onto somebody for an extended period of time? Where are they putting their hands? And, and things like that can go into the analysis. Now, one other interesting note about this case is that the Sheriff's defense was he didn't deny that he hugged her, but he said, "I'm a hugger. I'm just, I'm a nice guy. I hug people." He said, "I hug the men and I hug the women. I hug old people, young people. I hug everybody." And the Court said, "That's not a defense. Doesn't matter that you didn't intend to harass this person. What matters is that this female subordinate was uncomfortable with being hugged and it continued over, and over, and over again, and got to the point that it created a hostile work environment." So, this is a good illustration about how conduct that's not very severe if it were just a one-time incident, or it happened a few times, can ultimately rise to the level of a harassment lawsuit. And again, it's a good illustration that harasser's intent doesn't matter. So you don't have to intend to harass somebody to be potentially liable. So I want to talk about a few different things, the examples of things that we've seen that, that can create a hostile work environment claim. So, verbal conduct. Verbal conduct can be demands for favors, just sexually graphic statements, telling demeaning jokes in sexual nature, using just words or descriptions of body parts that are sexual or sexually suggestive. Dirty jokes, telling dirty jokes, again, even if it's a group of men telling dirty jokes to each other, or groups of women telling dirty jokes to each other. Describing sexual experiences. I've seen, we've had lawsuits that we've had to defend that were based on somebody who was into over sharing and would come into the office on Monday and want to talk in great detail about their sexual experiences over the weekend. That type of thinking, again, even if the person is sharing it because they think everybody wants to hear it and they didn't intend to hurt anybody's feelings. That type of thing, if it's unwelcome and somebody's offended by it, can be an example of conduct that can lead to a harassment claim. Let's talk about physical contact. So, unwanted touching and a good rule is, you know, really, you should avoid, if at all possible, any type of physical interaction or touching in the work place. That's the best and safest rule. I realize there are probably people who've worked together for 25 years who are very close friends who may give each other a hug every time they see each other, and that would be, to me, the exception to the rule. In general, work is supposed to be a professional environment. And so, I've seen, I'm (inaudible) lawsuit issue right now with somebody who is sort of a touchy feely person, and who would put their hand on somebody's shoulder, or kind of rub their lower back, and the person says, "Well, I didn't know anybody was offended." And that doesn't really, again, that doesn't really matter. So, unwanted touching, you know, particularly touching anywhere close to somebody's private area. Encroaching on somebody's physical space, even if you're not touching, you know, I've seen and heard stories, and seen things where, you know, a supervisor gets very angry and kind of is yelling at a person and they're kind of backed almost into a corner and they feel like almost imprisoned that they can't move, that type of thing, can be physically intimidating conduct. Massages, I actually did have a, once, a claim that I defended where I defended an employer where there was a guy, a male employee, who liked to walk around and he'd walk behind some of the female employees when they were at their desk and just start, and say, you know, "You look really tense," and start massaging them. And this got him the nickname of Nester the Molester. So, massages in the work place are not something that is appropriate. So, again, general rule is that you should avoid, you know, physical contact with your, with your co-workers. Examples of visual conduct, or visual material, the example, an obvious one would be pornography. I actually saw a study once that I was very surprised of, but somebody did some sort of analysis where they examined, you know, hundreds of work place computers, and looking for whether or not

employees use computers to access inappropriate or pornographic material. And they found that, evidence that 81% of the computers that they looked at had been used, at some point in time, to access pornography or sexually explicit material. So, I was quite surprised by that statistic. You wouldn't think it happens in the work place, but apparently, you know, based on this study, it does. Pornography is, obviously, 100% banned, inappropriate, it should never happen in the work place. Nobody should be bringing in magazines. Nobody should be pulling it up and showing it to co-workers on their phone. Nobody should be accessing it on the work computer. It has absolutely no place in the work place. Sexually suggestive emails, well even if it's emails of people in bikinis, or boxer briefs, or in lingerie, screen savers on computers, cartoons or pictures that depict either sex in a demeaning way or a sexual nature. I had a lawsuit once where there was a supervisor who liked to draw these (inaudible) nude car-, he was quite a, really good artist, actually, but he drew nude cartoons showing various co-workers in sexual positions. And it ended up being a lawsuit that came out of it. So, he thought he was just being funny and, but didn't realize that people found this to be really offensive and so it turned into a sexual harassment claim. Now the last thing, element of what makes a harassment claim, we talked about a sexual harassment claim has to be based on sex. It has to be severe or pervasive. And then the last thing it has to be unwelcome. So, this is meant to, the reason why (inaudible) welcome is so that somebody doesn't bring a lawsuit if they're not offended by the conduct. So, if you tell a dirty joke to somebody and they genuinely enjoy it and they laugh about it, and then it's not unwelcome conduct. And so it's not harassing. For it to be harassing, it has to be some sort of conduct that offends the person who is experiencing it. The problem with this is this isn't a great defense to a claim. We see this a lot where somebody tells jokes or makes comments and then they later say, "Well, that person never appeared to be offended." And, you know, "They, they participated or they seemed to be laughing and enjoying themselves." Well, courts say that whether or not conduct is welcome is something that a jury needs to decide based on listening to testimony, deciding who's credible. Because they recognize that there may be situations where you have somebody who comes to work and they're in a work environment where people are telling dirty jokes, or telling stories about sexual experiences. And they're very uncomfortable. And they're offended by that, but they don't wanna be that odd person who's gonna ruin the fun for everybody. And so, maybe they're sitting there and they're pretending to laugh because they want to get along with everybody, they want to fit in the work environment. And they realize that if they're the one that goes and complains to management, or they're the one who says, "Hey, cut it out," then maybe they're gonna be disliked and maybe they're not gonna be part of the group. And, and so just because somebody may seem to be enjoying, you know, the banter or the dirty jokes, or that type of thing, or they may seem to be laughing, doesn't mean that everything is okay. That person could still, later on, bring some sort of a complaint or bring a harassment claim and say, "This is unwelcome. I just kind of felt almost coerced or pressured to participate." It's also possible that somebody could, you know, be participating voluntarily in these types of conversations. And they can always change their mind later and think, oh, you know, this has kind of gone too far. You know, now I'm uncomfortable. Now I want this to stop. And any time somebody wants behavior to stop in the work place, then it needs to stop. But, again, unwelcome, this is not a great way to defend against a sexual harassment claim. The best thing to do is to avoid, or creating any type of situations that could result in a harassment lawsuit. And that means not to tell sexual jokes. Not to bring sexually explicit material. Not to use sexually explicit language or any of that type of conduct that we just talked about. Now this is just sort of a reminder that when I talk about hostile work environment, I'm talking about what can get you sued, what can get you dragged into court and having to sit on, you know, get on the witness stand and have a jury decide, you know, who wins, the plaintiff or, or the defendant. But employers have every right to set a policy

that has higher standards than what the law requires. So even though you may not get dragged into court and sued if you tell too inappropriate jokes, that doesn't mean that you didn't violate the City's policy. Employers can have a zero-tolerance policy that even one, you know, sexual joke is grounds for discipline. And so, employers can always have a higher standard that way they can try and act and respond to inappropriate behavior before it gets to the point of, of a lawsuit. So even making one comment, telling one joke (inaudible) somebody one time, even though that may not get you sued, that's, could be that's grounds for possible disciplinary action under the City's personnel policy. It also means that if you, as a supervisor or a manager or an elected official, you observe something, you walk by and you see a group of people that you supervise and they're sitting around and you hear them telling, somebody telling a dirty joke, well, there's an opportunity for you to step in and intervene and stop that conduct before it potentially escalates. And you don't necessarily have to discipline anybody if there's not somebody who says they're offended, but you can just go in and say, "Hey, guys, that type of stuff is not appropriate for the work place." You know, "I'm giving you a warning this time." You know, "Let's keep it professional. We don't want to offend anybody. We don't want to make anybody uncomfortable. Alright? Let's cut it out." Maybe that's enough and, and you've taken care of the situation before it's gotten any worse. If it continues again, then you can start taking more severe action. You can certainly, you know, give somebody a formal written warning, right them up, could do a verbal counseling. But these are the type of things where if you see something and you say something, there's a good chance you can intervene and, and you can put a stop to behavior that could ultimately turn into something a lot worse. And then another point here is just there's a lot of conduct that's disrespectful or unprofessional that may not be harassment under the law. For instance, if you, you know, if somebody bully's somebody, just because they don't like them personally, has nothing to do with that person's race, their sex, their disability or protected class, that's not gonna turn into a legal claim. It's not unlawful to treat somebody poorly or just to be a jerk. But that behavior is disrespectful and unprofessional. So, as supervisors, as managers, if you see somebody who is just, who's bullying, taunting, being rude, being disrespectful to another person, even if it doesn't seem like it's harassment, you know, legal sense, it's not behavior that should be allowed and somebody should intervene and help on working on improving the work environment, and reminding people that we all need to treat each other with respect. People don't have to be best friends. They don't have to, you know, love each other, but they do need to treat each other professionally when they're in the work place. Now, I wanna talk about who, who can be a harasser. Well, the answer, really, is anybody. Anybody could be a harasser; manager, supervisor, co-worker, vendor, contractor, member of the public, elected official, male, female. There's something called, that we call third party (inaudible) the law. And that's when it's not another employee. It's somebody else who is the harasser. And I'll give you an example. There used to be cases that first happened in the restaurant industry. And what would happen is there would be, say, a female server and a male customer. And the male customer would make rude, lewd comments or sexual advances to the female server. Or maybe, you know, touch the female server on the arm or something, and made the person uncomfortable. The female server would go to the manager and say, "Hey, you know, this customer is really making me uncomfortable. I don't like the way he's treating me and I don't like the way that he's behaving." And the manager would say, "He's not our employee. I can't write him up, you know. And he's a paying customer. Customer is always right." So the, what would happen is management wouldn't do anything about it. They would tolerate it because it's a customer. Well, the court said that that was not good enough, that an employer has a responsibility to protect all employees from harassment regardless of who the harasser is. And so that employer, what that manager should have done is gone to that customer and said, "Sir, we've had a complaint about your behavior. If you're going to make unprofess-, rude comments or,

or explicit comments to, or touch somebody, you're gonna be banned from this restaurant." And so the same goes if you have a, somebody that you supervise and there's a member of the public who comes up, maybe at the front window to pay their utility bill, or there's a vendor that the City deals with, and you see or hear about that person mistreating or harassing an employee, well, you have a responsibility to step in and to take action to protect the, that employee from being harassed. Same is true for elected officials. Same is true for judges. Same is true for anybody. So, regardless of, of who it is that may be the source of the harassment, you hear about it and you're a manager or a supervisor, you have a responsibility to do something about it. I keep saying that, you know, managers, supervisors have a responsibility. The reason I'm emphasizing that is because well, when a manager or a supervisor harasses a person, the employer is pretty much automatically liable. Managers and supervisors, they are the employer, right? They're acting with the employer's authority. But when the harasser isn't a manager or a supervisor, when it's a co-worker, when it's a member of the public, a vendor, or any of those people, what the City's liable for, or what an employer is liable for is if they knew or should have known about the harassment and they failed to stop it. So that is what the, that is what the court or a jury would be looking at. So, you supervise, you know, say seven employees and, you know, some men, some women, and there's a male employee who's harassing another female employee. There's no automatic liability 'cause it's not a supervisor. But the question is going to be did you, or anybody else at the City in a position of authority, did they know or should they have known, so you can't just, you know, ignore and turn a blind eye, something was going on and failed to fix the problem. So that's why it's so important that as supervisors and managers, if you see something, you hear something, that you're pro-active and that you take steps to, to stop it because that's when you get, when you're liable is when you know about it, you hear about it, and you don't do anything about it. Now I want to give you just an example of just a case here involving a third party harassment just because this is a very recent one. This was one where an employee, the Equal Employment Opportunity Commission actually brought a lawsuit against Costco on behalf of a female employee who said that for more than a year, a male customer would come in and he would follow her around the store. He would touch her. She felt that he was stalking her. He would make advances towards her. And she reported the conduct to management and management never did anything about it. Or they did something, they didn't do enough about it because it kept on happening. And so eventually, there was a lawsuit against Costco and it went to trial and the jury awarded the victim \$250,000 in damages, and said that Costco was liable because they knew or should have known what was happening and they didn't protect their employee. Now I want to say a few words about where harassment can occur. First one is obvious. Harassment can obviously occur in the work place. Harassment can also occur at employer-sponsored social events. Every year, actually, I look forward to January because I see a big uptick in harassment claims from company and City holiday parties. And that's only, only half-joking. And actually, we do see quite a bit of claims because a lot of times at events, especially ones where there's the, alcohol is flowing and people are in a more festive mood, they forget that it's an extension of the work place and that when you're at any type of an employer-sponsored event, the same standards of conduct apply and you have to behave (inaudible) behave inappropriately because it's at a com-, a City softball game, or a picnic, or a holiday party. Now the third one may not be quite as obvious. And that is harassment can occur off-site at a private site, private events. So, imagine a scenario where a group of people go out for happy hour. Right after work, a group of people go out and they have some drinks. They're unwinding after work, relaxing, they have a few drinks. And let's just say an employee perhaps has too many drinks and starts to sexually proposition a co-worker. Let's just say that employee then puts his or her arm around a co-worker, or starts to rub their back, starts touching in a way that makes the person uncomfortable. Well, when those people, that, that co-worker, that

person goes back to work the next day, how do you think they're gonna feel when they see the person who treated them that way? They're not gonna be able to erase it from their mind and act like it doesn't exist, right? So (inaudible) it never happened. So conduct, harassing conduct that happens outside of work still impacts relationships and affects the work environment. And so, if somebody comes to you and tells you that there was an incident of harassing, or conduct, or you know, inappropriate touching, or unwelcome touching, and it happened after work and it happened at a happy hour, or it happened on a weekend, that does not mean that you can just say, "Alright. We're gonna ignore it. It's not our problem. It didn't happen at work." Those types of situations still need to be reported to H.R. They need to be investigated and they need to be addressed, just the same as conduct that takes place in the work place. This is also a reason (inaudible) go to happy hour, to go out somewhere where there's alcohol with, with co-workers. It just adds to the potential of, for there to be uncomfortable situations if people think that, well, the boss is here (inaudible) participating in whatever banter is going on or, or somebody feels uncomfortable. It's, you know, people, work relationships are not supposed to be, really, friendships between managers and supervisors and their subordinates. They're supposed to be professional relationships. Now I wanna say a word just about technology. One thing that's a given is that as new technology comes out, people will find ways to use it to harass one another. And so, one of the latest, the trends that we see is harassment through social media, texting, sexting, even emojis. There's certain emojis that you probably all may be familiar with that have a sexual connotation. And so this conduct can't be ignored and it's not okay just because it's done through text message or through social media. Any type of (inaudible) you know, sexual nature or discriminatory, or harassing is inappropriate regardless of whether it's a face to face conversation, an email, or if it's a text, or if it's a Facebook message, or whatever it may be. We've seen more and more, I've seen more and more cases of co-workers texting each other pictures of their private parts. Hopefully, it goes without saying that that is never something that is appropriate, but, and it never ceases to surprise me, sometimes, the type of things that we see and the poor judgment people can exercise. So, any type of inappropriate conduct is, should not occur, regardless of whether it's using any of these types of technology. So, again, one of the key lessons for everybody is be pro-active. You don't necessarily have to wait for a complaint. If you see something, you don't have to come in and, you know, start firing people. Try to solve situations at the lowest level possible. You see an inappropriate, or hear about an inappropriate joke or comment, and it seems like nobody was necessarily offended, nobody complained to you, you should still, if you recognize that, take a moment, speak to people. You don't have to come in like you're threatening, but, and say, "Look, guys. Let's keep this clean. Let's try to cut that out. Let's try to be more professional. We're in the work place." So if you try to address things and you can address them at the lowest possible level, then there's a good chance you're going to be successful in avoiding things that are gonna escalate to a potential harassment claim. Now I wanna go through a just kind of question and true/false, question and answers, and then I wanna say a few words before we wrap up hostility in the work place. So, true or false, Susan's supervisor, Tom, repeatedly asked her out on dates. Susan has always declined the invitations. Recently, Tom told Susan that he would need to know, to get to know her better before he could recommend her for a promotion. And Susan later learns that Phil has been given the promotion. This may be quid pro quo harassment.

Councilman Diaz: True.

Mr. Coleman: The answer to this one is true because what we have here is a supervisor who is trying to use his authority and the availability of a promotion to try to pressure a subordinate into a romantic relationship.

So that is, that type of thing would be unlawful harassment. (Inaudible) his female co-workers. When one of the women complains about his conduct, Rick tells his supervisor he's used these terms for years and means no harm. Rick's conduct cannot be considered sexual harassment because he did not intend to offend his co-workers. The answer to this is false. Intent doesn't matter. Now the question here is we're gonna be, if this were (inaudible) claim is was this severe enough and is this frequent enough to be a hostile work environment that can result in a legal claim. Maybe not, but again, the fact that he didn't mean to offend anybody is irrelevant. Leah works in an all female department. Because there are no men in the office, Leah feels comfortable frequently talking to her co-workers about her body, her boyfriend, and her sex life. Leah believes she is just engaging in girl talk and does not intend to offend anyone. Because she does not intend to offend, to offend any of her co-workers, who are also female, does that mean she has not engaged in sexual harassment, or conduct that could be considered sexual harassment? That one's also false. So, again, there's no safe space just because it's men, only men around or only women around. If the conversation is sexual in nature, even if nobody intended to offend anyone, it can be a basis for a sexual harassment complaint if somebody is offended by it and doesn't want to be exposed to that type of conversation, that type of content. Steve and Paul engage in practical jokes and sexual banter at work. Until recently, no one complained about their conduct and many employees joined in the fun, including Sharon. Yesterday, however, Sharon complained to her manager that she was offended by Steve and Paul. Even though Sharon participated in the conduct, she complained the conduct was unwelcome. This one is true. This is a real good reminder that just because people, nobody seems to be offended, or people seem to be laughing, or participating, doesn't mean that somebody's maybe feeling some peer pressure, but doesn't really want to be, participate and is offended by the conduct. So, there is no guarantee that everything is okay, just because no one appears to be offended. Michelle and Lisa frequently exchange sexually explicit email jokes at work. Both of them enjoy these jokes and are not offended by the content. Because Michelle and Lisa welcome these mental breaks in the workday, there is no cause for concern. This one is false because somebody can later say Lisa or Michelle's facing disciplinary action, or they know they're gonna get fired, they can print out all of these emails and preemptively say, "Look at all this sexual material. I was being harassed," and try to do that perhaps to try to avoid discipline or to save their job. It's also possible somebody else could see the sexually explicit emails and be offended by it. So also, just the inappropriate use of workplace resources and, and workplace time. Two managers, Armando and Luis, invite several employees who come to, who work for them, out to dinner to discuss next year's goals for the company. After a few rounds of drinks, they begin discussing a co-worker's sex life. The newest member of the group, Charlotte, joins the discussion, but feels very uncomfortable about it. The next day, she mentions the incident to Karen, her supervisor. Because the incident occurred after hours and away from the work site, it would be unlawful for Karen to take any action. False, 'cause it happened outside of the workplace (inaudible) affect and impact the relationships in the workplace. And so it's not illegal to address something just because it happened in the evening or while somebody wasn't on the clock and working. After lunch one day, Mary stops by to see her supervisor, Lisa. After closing the door, she tells Lisa that Don Juan, another employee, has repeatedly asked her out on dates, makes constant comments about what she's wearing, and leers at her. Mary tells Lisa that she does not want Lisa to do anything because she wants to handle the situation with Don directly. Out of respect for Mary's feelings, Lisa should not take any action. So this is one I want to say a few more words about. The answer is likely false. So if somebody comes to you, like a subordinate, and you're a member of management, you're a supervisor, you're an elected official, and they say to you, "Okay, I want to tell you something, but you have to promise me that you're not gonna do anything or you're not gonna tell anybody else." You cannot necessarily make that promise to

someone because you all have a legal obligation to the City to take action to stop any harassment that you know is ongoing. So, somebody comes, they say, "You need to promise me," you may have to say, "Look, I can't make that promise because depending on what you tell me, I may have an obligation to report it to Human Resources," or, "I may have an obligation to do something about it." So (inaudible) somebody reports something to you and they report harassment and they say, "I don't want you to do anything about it. I just kind of wanted someone to talk to," you still have an obligation to make sure that that harassment stops or else there can be legal liability. And in this case, you know, this hypothetical, Mary says that she wants to handle the situation herself. Lisa, the supervisor, depending on how, how bad the harassment is, it's not something that's very serious, she can say, "Okay, I'll let you address it, but I want you to come back to me and give me an update on how things went and if everything is okay. And if it still happens even one more time after you address it, you need to let me know and then we're, I'm gonna have to intervene." So you could give the person the opportunity, but as long as you're staying on top of the situation, you're monitoring it and making sure that it's not continued. But you can never fully promise somebody that you're not going to take some sort of action because you may have a legal obligation to, to do something. Now, I want to say a few words about civility before we break because a lot of what I talked about is harassment (inaudible) stuff that is illegal in the workplace, but a lot of bad workplace behaviors are not illegal, but they're still bad for the work environment and that's what we call things that are, that's what we call incivility. And there are some statistics, if you bear with me for one second here, so I'm not gonna put these up here 'cause I'm having trouble switching my screen, but there are statistics that show incivility leads to higher turnover, lack of productivity, absenteeism, customer complaints, increased workplace accidents. There have been studies where people who feel that, that they're mistreated by their co-workers say that they're, 80% of them say they (inaudible) lose work time worrying about it, 38% have said that they intentionally decreased the quality of their work, 47% of people who felt that they weren't treated well, intentionally decreased the amount of time they spent at work. You know, 25% of people admitted taking out frustration on customers because they felt that they weren't treated well at work. And I just want to give a few examples of things that are incivility that, that you should be aware of that aren't, these aren't harassment, but they're things that are bad for the workplace, for morale. Forgetting to share credit with others who contributed to a project. Asking people for input and then ignoring it, or criticizing it. Interrupting others, not like giving everybody an opportunity to speak and to contribute. Not listening to what others have to say. Failing to acknowledge somebody else's, you know, presence. Untimeliness. You know, when a meeting, when you got five people in the meeting and four people are waiting and there's a fifth person goes, comes in seven minutes late and they've wasted everybody's time. We all have packed work days. We all want to get home to our families and we all need to be respectful and timeliness is (inaudible) incivility. Gossiping about other co-workers. You know, sharing negative information, gossiping, you know, telling jokes about other people. Another thing is, this is a simple one, but failing to acknowledge when somebody sends you an email asking you for something. One thing I do that I try to make a practice is if somebody sends me an email, and they need something from me, they obviously thought that it was important enough that they took a moment to email me and ask for me to handle something for them. And so if I can't get to it immediately, I try to always at least send an email fairly quickly, it only takes a few seconds, say, "Got it. I'm tied up. Is it okay if I get back to you tomorrow on this? Is that okay?" 'Cause what frustrates people sometimes when they send an email and they wait, 24 hours go by, and they're like is this person ignoring me? Did they not read my email? Did they, you know, what's going on? And they just kind of simmer and get upset about it. And so, communication, simple things like that, communicate with other people and let them know, acknowledge them, show, you know, some respect and it

can help de-escalate what can be a frustrating situation. But those are the little things that when they, they can escalate, little behaviors that, that, over time, can lead to people to be very unhappy in the workplace, low productivity, low workplace morale, and turnover. And they're things that can easily be fixed or that people can work on and, you know, try to pay a little bit more attention and just try to be more respectful of others. Somebody wants to gossip with you, tell 'em, "You know what? I don't want to hear it. I don't really think we should do that." Try to be on time. Try to treat people with respect. Listen to your co-workers. You know, take their feedback into consideration. Share credit. Those are the little things that can go a long way in creating a healthier and happier work environment for everyone. And so, with that, that's all I have for my presentation. I'm happy to take any questions, if any, if there's anything anybody wants to ask me. I see somebody did ask for the, okay.

Mayor Teso: Rita.

Councilwoman Rogers: Mr. Mayor, I'd just like to add thank you for the presentation. I'd like to ask you this question that might be able to be answered. And that is a long time ago, you mentioned Beinstein or Weinstein as a harasser or whatever, basically everyone knows that publicly as a sexual harasser, do to movie stars and Hollywood and film and all that, and he'd had many, many, many payments to make. So, giving the other example, a government person like Cuomo, who was voted on by the people, for the people, and the taxes pay for him to be there, who's, who's in charge of the harassment? Like the City ...

Mr. Coleman: So ...

Councilwoman Rogers: ... Council.

Mr. Coleman: ... some of that was fading out. I heard things about, about Cuomo. And allegations of harassment, but I'm sorry I didn't catch ...

Councilwoman Rogers: Okay. Governor ...

Mr. Coleman: ... (inaudible) ...

Councilwoman Rogers: ... Cuomo ...

Mr. Coleman: ... (inaudible).

Councilwoman Rogers: ... is a completely different thing than, than Weismein. Because he's elected by the people. He's an official. And he's paid by the government. Just like ...

Mr. Coleman: Okay.

Councilwoman Rogers: ... we get a stipend by the government. So, does it ...

Mr. Coleman: So, when ...

Councilwoman Rogers: ... (inaudible).

Mr. Coleman: ... someone is an elected, let's talk about elected officials, ...

Councilwoman Rogers: Right, like ...

Mr. Coleman: ... for example, ...

Councilwoman Rogers: ... we ...

Mr. Coleman: ... like Cuomo.

Councilwoman Rogers: ... are.

Mr. Coleman: So, the problem with somebody like Cuomo is that he, you know, doesn't have a supervisor or manager who can give him a written warning or suspend him, or otherwise discipline him. So, it makes it a very, much more challenging situation because the, the way to deal with a situation like that is, is to impeach him. But in terms of staff and people who work around somebody like that (inaudible) harasser, the best that an employer can do is that the people who are in management, if they become aware that an elected official like Cuomo is mistreating one of their employees, let's just say I'm a, you know, I'm a Director of an agency. And one of my subordinates has to meet, you know, with Cuomo on a regular basis and complains about the way he's treating her, or comments, or he's propositioning her, my duty as a supervisor to protect that person would be maybe not send them to that meeting any more. Maybe I go and attend the meeting as well so that I'm there so there's another person so that it can't happen. Or maybe what I do is I say to the Governor's Office, "Hey, we'd like to change these meetings to, to Zoom meetings." Or, "We think it would be more efficient if we just handled this via email or a telephone call rather than have a," but that would be the best that you could do to, to protect somebody from, from somebody who's an elected official who can't be, you know, given a written warning or, or terminated is, there'd still have to be steps taken to try to separate and minimize the potential interactions that could give rise to harassment.

Councilwoman Rogers: So, would you say, then, that, would you say that there's six citations already, would you say that it would be the government, would it be, we, the people that need to recall him since it sounds like the government doesn't have to pay?

Mr. Coleman: Yeah, I mean, and assuming he did the things he's accused of, it would be the, the legislature that would (inaudible) and remove him. I don't know the exact process in New York, but there would still actually be liability so any of the people who were, who allege they've been harassed, can bring a claim against the city. And if they can prove that, that the harassment was bad enough, they can still, they can recover. So that's why there's, it's a, like I said, a very challenging one, but for people who knew what was going on, they should have intervened to, to somehow stop it. Even if the Governor's Chief of Staff say, you know, not, not scheduling one on one meetings with, with female subordinates and making sure there's

always somebody else in the room so that there would be an observer. There would need to be something done, but though, that's one of the, that's a very challenging situation to deal with.

Councilwoman Rogers: Well, I'd like to make it clear for me, at least, in the 1.2 mile City of South Tucson, if someone happened to win a harassment suit here, would the seven Council members are really the City government need to pay those harassment cases through insurance?

Mr. Coleman: I'm not sure I follow the, the question. I'm having problems with some sort of echo on the, on the audio. Is there a way you can type, maybe type the question, whoever is on the, the chat?

Councilwoman Rogers: Could I try it again? Very important to me.

Ms. Aguirre: Hi, Steve?

Mr. Coleman: Okay. I can hear whoever is ...

Ms. Aguirre: Yeah.

Mr. Coleman: ... speaking now. I can hear better.

Ms. Aguirre: Yeah, so I think that the question that Council member Rogers is asking is who does the financial liability fall on in the event that a member of the Council were accused of harassment or a hostile work environment, and the employee issued a claim or a lawsuit. Who would that financial liability lie on?

Mr. Coleman: So, any time a harassment claim is brought by an employee, it's the City of South Tucson's liability. They're actually is no individual liability, so people do not sue their harasser. They sue the employer. And so, it would be the City that would be responsible for the conduct of its employees or, or other officials. I think I heard the word insurance pop in the question at some point. There may be insurance coverage under your policy. That would be a question to look into when a claim is filed. But, but it's, but the claim would be filed against the City of South Tucson if any employees were to be harassed.

Councilwoman Rogers: Thank you for the response.

Ms. Aguirre: Thank you. We have another question from Miss Carrie Hoover, the Court Administrator. Carrie, go ahead.

Ms. Hoover: So I'm just curious if there's any kind of, I guess you would call it a statute of limitation. You talked about a woman that, you know, that has been going on for eight years. That seems like a very long period of time to, you know, go back. It's something that, I guess realistically, (inaudible) taken care of (inaudible) first year. So, is there, or are you finding that people can go back and say, you know, "Five years ago, you offended me or you harassed me," (inaudible) people can be held liable for that?

Mr. Coleman: It's a great question. So in order to bring a harassment claim, somebody has to file what's called a charge of discrimination with the Equal Employment Opportunity Commission within three hundred days of the last act. So, you could go back years as long as at least the last thing to have happened was within 300 days. What I can't say is, "Hey, five years ago, you did this to me, and that was the last thing that happened and now I'm going to sue." But, you know, the, the eight years of hugging, yeah, as long as the charge of discrimination is filed within one year of the last hug, they can bring the whole eight years into the lawsuit. Now, it raises major credibility questions 'cause your point is a fair one and why did it take eight years if this person was really upset and offended? Did they (inaudible) have an ulterior motive? Maybe they didn't get the promotion they wanted or something, and they decided this was their way of, you know, lashing out. And that's a possibility as well. But those are credibility questions that a jury decides.

Ms. Hoover: Alright. Thank you.

Mr. Coleman: Sure.

Vice-Mayor Lopez: I have a question. Is there such a thing as a false accusation of sexual harassment that an employee can accuse their peers in order to get out of work? Is that something that you've heard of?

Mr. Coleman: Is it possible, I can hear, I can hear Veronica very well. Is it possible to have that question repeated for me?

Ms. Aguirre: I believe that the question Vice-Mayor Lopez has has to do with have you encountered, in your profession, where an employee uses the claim of harassment to avoid work. Is that correct?

Vice-Mayor Lopez: That's correct.

Mr. Coleman: Yes. I'll tell you a scenario that we, we do see from time to time. It's what we call the sort of pre-emptive strike. What we see sometimes an employee kind of sees the writing on the wall. Maybe they're going to be disciplined. Maybe they're going to be terminated and because they know that it's coming they decide I'm going to try to jump in and make a harassment claim before that happens. Because when somebody makes a claim of harassment, they're protected from any retaliation. And so sometimes, people think it's a way to sort of save their job or protect themselves is if they make a harassment complaint, then the City will not move forward and terminate or discipline because it will then, perhaps, look like this is retaliation. So, so we see that scenario sometimes. I'm not, by any means, trying to suggest that that happens frequently, or that, that most harassment claims are, you know, illegitimate. But there are, there certainly are occasions where that happens. And yes, we've had cases that I had defended where that has been our, our theory of defense is that the person was just making a false complaint to try and save their job.

Vice-Mayor Lopez: Thank you very much.

Ms. Aguirre: Thank you. Any more questions?

Ms. Moreno: Are there any more questions from any staff members, or department heads, or any of the elected officials?

(No more questions from staff, department heads, or elected officials)

Ms. Moreno: Well, thank you, Steve. We appreciate your time. It was very informative. I think it's important for all of us here, our elected officials, front line supervisors, and department heads to recognize hostile work environment that (inaudible) and everything that you covered and how to report it. And I, I also encourage, I have an open door policy and, you know, I tell employees to come talk to me for anything that they would like to report and that they should report. You know, don't ever hesitate to come to my office and if for some reason, you know, I don't have an answer, I appreciate that I can always go to Southwest Risk and talk to professionals like you. Thank you, Steve.

Mr. Coleman: Alright. Thank you. Everybody have a good night.

Mayor and Council members: Good night.

Ms. Moreno: Thank you everyone who attended. You can log off now. We're gonna turn off the Zoom.

Mayor Teso: We're gonna take this time to kind of ask, does anybody need a break right now?

Councilwoman Rogers: Mr. Mayor, did we ever have a Council report tonight?

Mayor Teso: A what? What report?

Councilwoman Rogers: A Council report. After the Pledge of Allegiance.

Acting Mayor Oyegbola: No, 'cause (inaudible). She's saying number #06.

Mayor Teso: Oh, yeah. Let's take a five minute break before we do any, okay, thank you. Yeah, we'll go back to that.

(The Mayor and Council took a short break)

Mayor Teso: Getting back in order here. We're gonna go over to Item #06.

ITEM #06 – MAYOR AND COUNCIL MEMBERS: REPORTS OF CURRENT EVENTS; FUTURE AGENDA ITEMS

Councilwoman Rogers: Mr. Mayor, do you know anything that you could tell me about a couple of things like where Discount Tire used to be, what's the name of the new place coming in? They got their big business sign up. That's the first question. Second question is, have you heard that Eegee's is coming into the City of South Tucson?

Mayor Teso: Eegee's?

Councilwoman Rogers: I am a person that (inaudible).

Mayor Teso: Yeah. I haven't, I haven't heard anything.

Councilwoman Rogers: You haven't heard? Okay. Those are two that I've heard.

Mayor Teso: Okay. No, I ...

Councilwoman Rogers: The guy, the guy's got the big business sign up now at Discount Tire. But the ...

Mayor Teso: Oh, yeah. Yeah.

Councilwoman Rogers: ... (inaudible) that's up on the window.

Mayor Teso: I passed by that one, the store ...

Councilwoman Rogers: Yeah.

Mayor Teso: ... but I haven't, I ...

Councilwoman Rogers: (Inaudible) ...

Mayor Teso: ... haven't dropped ...

Councilwoman Rogers: ... (inaudible).

Mayor Teso: ... in yet 'cause ...

Councilwoman Rogers: I think it came up on (inaudible).

Mayor Teso: Yeah, I see, most of the people I see working out there ...

Councilwoman Rogers: (Inaudible) ...

Mayor Teso: ... were, were ...

Councilwoman Rogers: ... (inaudible).

Mayor Teso: ... working on the pavement and doing painting and ...

Councilwoman Rogers: (Inaudible) ...

Mayor Teso: ... things like that.

Councilwoman Rogers: ... (inaudible). I just wondered if the rest of the Council knew.

Mayor Teso: Okay. Are there any other reports of current events?

(No reports of current events)

Mayor Teso: Any future agenda items?

Councilman Diaz: I have one. I'd like to get a report of what's really happening with the Police Department. And I'd like to find out what kind of meetings have been going on, secret meetings or whatever, to resolve the problem. So, I'd like that on the agenda for next, next meeting.

Councilwoman Rogers: Okay. (Inaudible) like the one that Mr. Luttrell asked about, about the sign because if it (inaudible) or something, that thing is very, very important. Thousands of people say I'm going there.

Mayor Teso: Right.

Councilwoman Rogers: And he, I noticed, I didn't know anything about, at all. But he said could it be on the next agenda, so whatever.

Mayor Teso: Okay.

Councilwoman Rogers: But I wanna be sure I'm in the minutes (inaudible).

Mayor Teso: Okay. Any other future agenda items?

Acting Mayor Oyegbola: I've got one. If we could do some research on a mobile app to contact residents in case of any type of emergency or we just need to give information. If you can just research it, that would be cool.

Mayor Teso: Okay. Alright. If there are no other future agenda items, then we'll move onto Item #07.

ITEM #07 – CITY MANAGER AND DEPARTMENT HEADS REPORTS TO MAYOR AND COUNCIL

Ms. Moreno: Yes, Mayor, thank you. I wanted to report the second vaccine are gonna be conducted here coming up. For vaccines that were initiated and done at the Housing Authority, the second vaccine will be done Saturday, March the 20th, which is this Saturday, from 8:00 to 12:00 p.m. And then the second round of

the vaccines that were done at the Tucson Greyhound Park will be done the following Saturday, March 27th at the Greyhound Park from 2:00 to 6:00 p.m.

Mayor Teso: Okay. 8:00 to 12:00 for the Housing Authority?

Ms. Moreno: Yes, 8:00 to 12:00 and then the one at the Greyhound Park will be done 2:00 to 6:00.

Mayor Teso: 2:00 to 6:00. Okay. Thank you.

Ms. Moreno: And we will be, we, as you know, we have our meetings the first and third Monday of the month, but we will be having a Special Meeting next Tuesday. We have some items that we need to bring before Mayor and Council on the Housing Authority. And a couple of items that we'll be bringing to Mayor and Council from the Finance Department as well.

Mayor Teso: Okay.

Councilwoman Rogers: This Tuesday coming up?

Ms. Moreno: Yes, the 23rd.

Mayor Teso: Thank you. Okay. Getting back to Item #10.

ITEM #10 – OPTIONS RECAP: DISCUSSION AND DIRECTION PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS), PENSION DEBT PRESENTATION, MARCH 2, 2021

Ms. Moreno: Thank you, Mayor, members of the Council. I'll turn it over to the Finance Director, Lourdes Aguirre. She will be providing Mayor and Council with a recap of the last presentation done by Stifel pertaining to the Public Safety Retirement Pension Debt.

Ms. Aguirre: Thank you, City Manager Moreno. Good evening, Mr. Mayor, members of the Council. I thought it would be a really good opportunity to just bring back to your attention, do a little bit of a recap, because I know that when Mr. Mark Reeder and that entire team was here, it was a lot of information. Okay? And so you all received a copy of this booklet here. And for those that weren't present, we put a copy in your box. Okay? We also have an electronic version, a PDF, available for those of you who want it for your files. But essentially what Mr. Mark Reeder with Stifel and his team members, as well as members from the Arizona League of Cities and Towns and the Director of Public Safety Personnel Retirement were all here present to talk to you about were options that other cities and towns are currently considering. These are options that have been considered in cities and towns throughout the country, okay, and now here in Arizona. If any of you are currently registered to receive newsletters from PSPRS, you probably noticed when they give announcements of a county or a city that just did one of these options, okay, to help improve their funding level. So, it was a great opportunity for them to come down here and give you an introduction, give you a little bit of history of how it got here. I know that we've been talking about this for quite some time now. The

different reasons that led to unfunding, but now, what it is that we've got to look forward to. So, some of these numbers, again, this is just, this is a recap, it's a summarization. I like to bring it down from, you know, something that's complex to something easy for you all to follow. And as we go through it, you're gonna realize these numbers, they sound familiar. Okay? Alright. So, to start off here, also while we go through these options, good thing to, for you all to keep in mind are some questions that I added towards the end. This is just, you know, guiding questions. So, what is the overall financial goal of the City? Okay. What's the goal? Is it, what's the short-term goal? What's the long-term goal? What are the pros and cons of these options? What is the overall organizational goal and how do these options help? So over the years, what I keep hearing Mayor and Council mention is they're really concerned about Public Safety, okay, the manpower out there, and being able to satisfy certain basic needs like the building's infrastructure, things like that. So, those are some of the needs of the City. So, as we're going through these numbers, keep in mind how they can tie into those needs. Okay? So, the first one here is just a review of pension debt. If any of you have ever looked through our financial statements, if you've pulled the actuarial reports from the PSPRS website, this is what you're gonna see. You're gonna see the unfunded liability at a total of 14.4 million, okay, 14.4 million. That's almost 11 million on the Police side, and 3.5 million on the Fire side. Your funding percentages are listed right here. On the Police side, Police is funded 5%. Fire is funded 28%. Alright. So now, the next table here shows you the impact on the budget. Okay? If this debt is left with Public Safety Retirement System, this is what you could plan to see. And these are all published, okay? So, by fiscal year ending 2022, the annual required contribution rate is gonna be \$732,000 a year. Okay? For years '24 and '25, it's gonna be \$890,000. For years '26 through '30, 1.1 million. So now we're talking more than a quarter of a million dollars that we are expected to see in increase in the next four years potentially. Okay? So, on the 2nd of March when Mark came down and he gave you all these options, the first option he covered had to do with what are called PRO bonds, Pension Revenue Obligation bonds. And those are essentially supported by revenue from a specific project, a fee, or a tax. Okay? We currently have a revenue bond, which you all approved for refinancing back in 2019. And that was really, really significant because you all refinanced that to cut the interest in half. So that was really good, significant. That revenue bond is paid by General Fund tax dollars. So the first option that Mark gave was a Pension Revenue Obligation, which would have to be paid by General Fund taxes. The second option had to do with a combination of PRO bonds, or Pension Revenue Obligation bond and General Obligation bonds. Now you all know that General Obligation bonds are supported by revenue, levied through a secondary property tax. Okay? That requires an election. So that was Option 1 and Option number 2. What we're gonna do here is we're gonna go over some of those numbers and look at the comparison between the two. Alright. So with Option number 1, a PRO bond, the expected savings is 12.6 million dollars. The City would be done paying this by year 2050. Okay? And this is based on an average 4% interest. Right now, the interest that is calculating on that 14.4 million, okay, is 7.3% with PSPRS. Okay? So by the time, with PSPRS, by the time the City is done paying in year 2050, it will have paid 37.5 million dollars, 37.5 million dollars. If nothing is done. With the first option, at a 4% interest, there could be expected cash flow savings of 12.6. You would still finish by year 2050, paying off, and down here what you see on this table, is what the impact on the budget would be. So by year 2022, actually, let me show you this, I have another screen that's a little better to see, side by side. I don't know. Is this better? This shows you side by side. Okay. So this one right here is the one we read off. So, status quo, if the City does nothing. This is what you can expect to approve in your budget, okay, as the annual required payment. With Option number 1, you could see the difference there. So, the annual debt service payment would be slightly below. The benefit here is yes, you can expect to save about 12 million dollars, okay, over the life of, of this debt. Well, take a look at these, these

years here, these two. And here as well. So, after year 2026, with PSPRS, the annual required contribution is expected to reach 1.1 million out of your budget, your General Fund budget. Under Option number 1, that would remain at \$916,000. If some of you followed the schedule that was printed in your book, what you would see is that under the status quo right here, the highest rate that you would have to pay, the highest contribution, would be 1.9 million, 1.9 million. Whereas with Option number 1, you would keep the payments pretty level, pretty level. Let me show you what that would look like in a graph. So I think that was page number 12, page number 12. Or actually, page number 10 as printed. It's printed page number 10. So what you see here, and it might be a little small. Let me see if I can make it a little bit bigger. So this red line here, essentially, again, is your unfunded liability, okay, and the required payment. See how they, they continue to rise. With Option number 1, the payment is kept level. It's kept level. So all of this, this is the 12 million dollar savings right there. All the way out through 2050. Yep. Alright. So with that said, let's go back to the options here. So then the second option, I mentioned was a combination of the two; a combination of the Pension Revenue Obligation bond and a General Obligation bond. So one thing to notice here is what your payments would be like. So, really, not much difference. However, you would be paying quite a bit more beginning 2024 because any money levied through a General Obligation bond would not be used to contribute against the annual payment, or to reduce it, but it would add to it. Okay? So the annual payment for debt service starting in 2024 would be an average of 1.1 million dollars of which the City would have to budget \$800,000 and \$200,000, \$227,000 would come from a levied tax. The benefit of this would be, as you can see here, the benefit of this would be 16 million dollars in savings. And you're done paying it off eight years sooner. So, by 2042. By 2042. So, you know, again, what are your financial goals? Short-term, long-term. If what you're looking at is long-term, well, Option number 2, of course, helps you pay the debt off sooner, by 2042. But if you're looking at a short-term goal to help with some of those short-term problems, then perhaps Option number 1 is the option to consider where you don't see a spike, a real spike in the, in the annual debt service payment. Things for you to consider. Are there any questions regarding these Options 1 and 2, or the status quo with PSPRS?

Councilwoman Rogers: Mr. Mayor, I'd like to ask Miss Lourdes a question. Okay. 'Cause I'm all mixed up on everything. I didn't get one of those books 'cause I missed. Remember, I wasn't here.

Ms. Aguirre: Yeah.

Councilwoman Rogers: But is the one option, is it Option 1, just, let's just take sales tax, 11.6%, which is real hard on people here. Okay. If you, did you just mention 5% secondary in Option 1?

Ms. Aguirre: No. Mr. Mayor, Council member Rogers, no. In Option number 1, there would be no property tax, no increases in sales tax. However, your payment would be paid from your General Fund revenue.

Councilwoman Rogers: That's the one that goes to 2050. And the ...

Ms. Aguirre: Correct.

Councilwoman Rogers: ... other one, 2042, which means you don't leave all of these debts to your great-great-grandchildren. I don't have any. They would get 'em. But that isn't in there either in that second one, right,

about the 5, 5% rate and that, that we didn't have of the secondary tax. 'Cause I already know who's (inaudible).

Ms. Aguirre: No, so ...

Councilwoman Rogers: (Inaudible) doesn't matter where they come from, 11.6 plus 5 more, and all to them is taxes. They don't really keep track of which place.

Ms. Aguirre: So I think that to answer your question, Council member Rogers, I know that, I think that you're speaking on behalf of the business community ...

Councilwoman Rogers: Yes.

Ms. Aguirre: ... and they consider it, you know, tax, property taxes, sales taxes all as a whole. Option number 2 is a combination of what the City would pay from, from General Fund revenue and from a secondary property tax.

Councilwoman Rogers: Which needs to go to a vote, right?

Ms. Aguirre: Correct.

Councilwoman Rogers: And that's number 2?

Ms. Aguirre: That's number 2.

Councilwoman Rogers: Okay. I just wanted to know which one to vote against. Thank you.

Ms. Aguirre: Yes, that one's number 2. Okay? So, if you all want to see what that looks like just for point of reference, I think it's important to mention it, that way you, you guys have all the information available. Alright. Let's go down, okay, here it is graphed out. Okay? Once again, the red line here, this is the debt with Public Safety Retirement System. You see how it continues to increase, peaking here at the end? Okay. The bars in blue represent the revenue bond. The bars in orange represent a secondary property tax.

Councilwoman Rogers: Okay.

Ms. Aguirre: Okay? And so in this graph, what you do not see is it extending all the way out to 2050 'cause those extra payments from secondary property tax help shorten that term to 2042. So really, the benefit is long-term. The benefit is long-term. Because the secondary property tax in this scenario would not help to lessen the City's burden, financial burden, year to year. It wouldn't give the City any savings immediately, year to year. And I think it's very important that I point these things out to you all so you would have a clear picture, okay. However, the other, the other option scenario, or Option number 1, helps to maintain that payment level, level from now until the end. Now if any of you wanted to know, okay, here you go. Bonding capacity. Okay. These are two reasons that are allowed constitutionally for purposes of calculating bonding

capacity. So, one of them, for these purposes listed up here, water, sewer, light. The City of South Tucson doesn't have any utilities. Parks and open space, transportation and public safety purposes, 20% bonding capacity. So, let's say, just like any other city, you probably hear about this in the news, you know, they want to construct a really nice park, help support public safety, buy them equipment, things of that nature. Sometimes, they pass these types of bonds. The bonding capacity on that is greater, 20%. All other, the bonding capacity is 6%. Just to keep, as a point of reference, in the back of your mind. I think it's important to look at all these figures. I think it's important to know where you stand to get the most from, which option. Okay? Also discussed at that meeting was what it would look like, just as, this is just a hypothetical scenario, under Option number 2, okay, so secondary property tax would last for 10 years. Under this scenario, at 90 cents per \$100 value. Ninety cents per \$100 value would bring in these amounts that you see here in column number 6. So, they'd bring in \$87,000 for the first year, \$240,000 for the next year, and they stay kind of level right there.

Councilwoman Rogers: Mr. Mayor, I'd like to ask a question. So the thing you just said, eighty-thousand or whatever, if three businesses coming in, which I believe they are, how much do they give you?

Ms. Aguirre: Well, Mr. Mayor, Council ...

Councilwoman Rogers: (Inaudible) ...

Ms. Aguirre: ... member, ...

Councilwoman Rogers: ... (inaudible).

Ms. Aguirre: ... Council member Rogers, it all depends on the value of their, their building, their structure, how much it would be taxed, 'cause that's what the tax is based on. So, we'd really need to know the value of that. Now with regards to sales tax, I think we could do a little bit of research and see how much we, they, a business like that is expected to bring in. We can run those calculations, too. We've done it in the past with other ...

Councilwoman Rogers: Yeah.

Ms. Aguirre: ... businesses.

Councilwoman Rogers: (Inaudible) they're all empty on 4th by me. (Inaudible).

Ms. Aguirre: So, this is ...

Councilwoman Rogers: (Inaudible).

Ms. Aguirre: Yeah, did that ...

Councilwoman Rogers: (Inaudible) ...

Ms. Aguirre: ... answer your ...

Councilwoman Rogers: ... (inaudible).

Ms. Aguirre: ... question, Council member Rogers? Yes? Okay. Alright. So, this was, again, just hypothetical. Now, I think we should go on to talk a little bit about, let's talk about the benefits and the risk, okay? Regardless of which option you all decide to go with, there are benefits and there are risks. Okay? This is basically issuing, or getting a loan to pay off that debt. So ultimately, the benefit would be that with PSPRS, once you get that loan, you pay off with PSPRS, you're 100% funded with PSPRS. Okay? So then naturally, now, year to year, you have your debt service payment at the level that we mentioned a moment ago. But now, the percentage that's tied to your salary and benefits budget is lower. Now you're not looking at 150% on the dollar. Or 350% on the dollar, like in Fire. The 120% was, is the rate on Police.

Mayor Teso: Right.

Ms. Aguirre: Okay? So you're looking at more like 12%. And there's even more benefits if you, depending on the tier that you hired. Okay? So this would, in a sense, either option, that's the benefit. You could try to strive for that 100% funding, okay, and lower your rate of contribution, making it easier, making it less expensive to employ and start building your staffing levels. The risk, okay, so now we just said that with PSPRS this would allow you to become 100% funding, funded. However, if the pension benefits are recalculated, and we know that that's happened before, if there are investment losses or if there's a change in the investment rates that PSPRS uses to calculate, if the mortality tables change, if people are expected to live much, much longer, those are all factors that are outside of the City's control, but that could affect the funding level where all of a sudden, South Tucson may not be funded at 100% any more, but 90%, 80%, based on those different scenarios that could fluctuate. Okay? So that part is the risk. When Mr. Mark Reeder was here last meeting ...

Vice-Mayor Lopez: I have a question. These risks that you just, that, that are part of the rate investment, the mortality figure, the pension benefits, how often will, how much time do we have to react to, to these changes in order to meet the, the difference, whether it be goes up or whether it goes down, and is it something that we have to pay extra like immediately to make up a good financial standing with them?

Ms. Aguirre: Mr. Mayor and Vice-Mayor Lopez, that is an excellent question. Because here within the last maybe like seven years, we've seen these types of changes in the formulas, in the assumptions, okay? And it began like in 2013, 2014, with what they call pension reform. There was just so many variables that were affecting, you know, oh, they were trying to make up for investment losses, revising their investment rates, mortality tables, pension benefits, they were revising those formulas. So that was around that time. And we saw the trickle down effect of that within about two years where all of a sudden, your pension contribution rate, or your annual required contribution increased. And that was just like six years ago. So that's how fast they can, and it all has to do with, you know, if the PSPRS Board approves any of these changes, it's been sent off to their actuaries to include with the following year's calculations. And, of course, they give you maybe like a year to catch up, or to prepare.

Mayor Teso: Right.

Ms. Aguirre: That's not, that's not a lot of time for a city like South Tucson. So, yes, that's how soon we've seen it happen. Now those types of calculations happen maybe after like 30 or 40 years. Right? They were trying to fix a problem that was like 30 or 40 years old. But I'm pretty sure that they're doing, they're gonna do their best to stay on top of it from now on.

Vice-Mayor Lopez: Thank you.

Ms. Aguirre: Sure. So with that said, yes, there's a ton of benefit, there's a little bit of risk. So, how can we mitigate that risk? One thing that you guys were not presented with because we didn't want to confuse you all, okay, was creating a Contingency Reserve Fund. So you only got Option 1 and 2. But in some of the meetings that we've had with the team, they discussed the benefit of creating a Contingency Reserve Fund and maybe adding a little bit of more debt to that 14.4, okay? So that you create this fund and it sits, it just sits aside in the event that there's changes that reduced your pension funding level. You have money readily available to address that.

Mayor Teso: So you could address that immediately.

Ms. Aguirre: Exactly.

Mayor Teso: Okay.

Ms. Aguirre: Exactly. And so what they noticed, this, this team that presented to you all, what they noticed is that with cities and towns and counties that they've been working with, the creation of a fund like that was really, really good in helping improve investor confidence. And we all know that over the course of the years, yes, we've been able to improve our financial situation a bit in the last couple of years, however, South Tucson has not, has not experienced the best credit worthiness. It's had a lot of debt.

Mayor Teso: Yeah.

Ms. Aguirre: Okay? So maybe this is one thing to help improve that credit worthiness to help improve, um, credibility with investors, give them a level of confidence. However, that would be represented year to year as an increase in your payments because then you'd be adding to that 14.4. Okay? Just to have that money set aside. There was one more thing that I wanted to mention about that, the additional, okay, additional liability, okay, with the Reserves. You know that issue we've been dealing with, that's separate, yes, you remember? Okay. That issue has been placed on rush by the Director of PSPRS and so they're going to come up with a figure, the actuaries will, to add, that could be added or included with this here. Added or included with the 14.4 million, okay, to satisfy that additional debt. But remember, staff was authorized to proceed with the payment and so we're hoping that that additional debt is minor. Okay? Because a very significant payment was sent. And I think we can report at the next meeting, probably in Executive Session, with the details of that. So, creating a Contingency Reserve Fund is an option. Another one is CARES Fund. The City of South Tucson is expected to receive 1.3 million dollars in CARES Fund money split up into two distributions

over the next two fiscal years. So, about \$650,000 in fiscal year 2022, and \$650,000 in the following year. Now that is another way Mayor and Council can create a Contingency Reserve Fund. Maybe utilizing the CARES Fund money in full or in part.

Councilman Romero: Mr. Mayor, but they're very specific on what we can use that money on, isn't it?

Mayor Teso: I don't think so.

Ms. Aguirre: Mr. Mayor and Councilman Romero, actually, with this round of stimulus money, CARES money, the restrictions ...

Councilman Romero: They did, they did away with them?

Ms. Aguirre: Yeah.

Councilman Romero: Or ...

Ms. Aguirre: Yeah, it's, it's a little more open-ended to assist, help assist cities and towns.

Councilman Romero: Yeah, 'cause the last time ...

Ms. Aguirre: With their budget.

Councilman Romero: ... (inaudible) ...

Mayor Teso: Yeah.

Councilman Romero: ... prohibited about what ...

Ms. Aguirre: It was.

Councilman Romero: ... we could use it on.

Ms. Aguirre: Absolutely, yes. And so we used it just as, you know, specified on Public Safety, but this time it is pretty much open-ended. So, I mean this is a great opportunity for Mayor and Council to utilize that money for, for, you know, to satisfy some of the needs of the City. I know that you all have been talking about the fire truck, so we're gonna report back with some information on the fire truck in the next meeting. We've been looking at some financing options based on a down payment and directed by you all, and what that would look like. With money like this coming through from CARES Fund, you can use a portion of that to pay the rest of it off, use it for your buildings, you know, the options are there. Or you, and you can set the rest aside for a Contingency Reserve Fund. And if you did that, you wouldn't be adding anything to your annual payment.

Councilman Romero: Mr. Mayor, I have an issue with getting a fire truck. What good is it to have a fire truck if you only have two firemen? We can't afford to hire more guys. Basically, we can't afford to get a fire engine if we don't have the people to man it. That's something else to consider. I know Mr. Diaz mentioned some time about, a while back about a volunteer fire department. That's fine and dandy, but we're all in our 60's and 70's. And mostly, that would be the volunteer guys. Young guys ain't gonna do that. Something else to think about. We have good intentions, but we don't have the money for any of the stuff we wanna do. You know, there are some of us here that don't want to do secondary taxes, that don't wanna do taxes, but that's something that we're gonna have to do.

Ms. Moreno: Mayor, members of the Council, just to reiterate what Lourdes said, I mean the two options that she's presenting to you, in my mind, I'd like to try to simplify it because when I hear numbers, it just throws me off. And I hear calculation and the method on how they got to those numbers, I'm, I'm literally so like which is the best option for the City? And I know I think that I've gotten the sense from a majority of the Council, you know, I don't know, because it's my sense that you're not too much in favor of, you know, imposing or asking, you know, your constituents for a secondary property tax. And I understand that. That's (inaudible). You know, we're still in a pandemic. We are not quite out of the woods. So, maybe that's something that the City can plan moving forward, but that option is still on the table. The Option 1. Because the difference between the two is whether if you were to ask the question of your constituents, what it does it reduces your term from, I mean your difference. Your payment still stays the same, but the money coming in from a secondary property tax just adds more to like the principal, so to speak.

Mayor Teso: Right.

Ms. Moreno: It's like a mortgage. You're adding more. So, Option number 1 is through 2050, where we continue with that payment. Option number 2 is asking the voters. Should it pass, we don't know, yes or no, but if it does, it just changes that term from 2050 to 2042. So, that's just kind of to simplify it for you, Mayor, members ...

Mayor Teso: Right.

Ms. Moreno: ... of the Council. And I, I understand where Councilman Romero is coming from. I mean, you know, we barely have enough money to support the services and, and this is the whole goal so that the City can be financially sustainable. We have (inaudible) questions and, you know, explain to you these, you know, complex situations we find ourselves in because there needs to be some plan. We can't just ignore it because the City could cease to exist, or nobody wants to hear the "B" word of bankruptcy. I mean the last city in this, in the country to file for bankruptcy or actually the State of Arizona was the City of South Tucson. And we definitely don't want to go backwards. We want to move forward. So, should the Mayor and Council decide any of the options. The conversations that Lourdes and I have had, I would recommend, right now, with some of what I just explained to you, I would go with Option number 1. If the Mayor and Council were to even consider to go with Option number 2, yes, that's (inaudible) the community but that would be something that we'd place on the budget, as it has to be on a General Election ballot question. So, that's right around the corner. So, you know, definitely, Mayor and Council, please consider that, you know, you'd want to put together an Advisory Committee. That would take some time and I think that if your constituents were

(inaudible) considerate they'd want to see something tangible. They wouldn't see nothing tangible with paying. I mean it would help us, you know, you know remove eight years from the total payment term, but they wouldn't see new fire trucks and new fire fighters (inaudible). But the goal is to, you know, be able to make that payment and not to be faced with a position where we're just, we can't do anything. So, the stimulus money will help us. The thing with the fire truck, I mean day to day, it's a liability. I mean, you know, it's a (inaudible). So, we don't know next month, in two months from now, we don't have a magic answer right now, but what we do know is that we cannot no longer allow any of our employees, especially our first responders, to be driving their main apparatus and at any minute it could just leave them. So, that purchase, right now, I mean it has to be done.

Mayor Teso: Right.

Ms. Moreno: It's really no other option. You know, we don't have a full staff, each of our, our shifts. We do have, you know, support from City of Tucson and so right now, there is a plan to address that need, but we definitely need to at least, in order to adhere to our contract, or IGA with the City of Tucson, we have to have a functional, operating apparatus going out to our calls. That's just the very minor ...

Mayor Teso: Right.

Ms. Moreno: ... of what we need to do. And you know what, this is our family, these are our businesses, these are your neighbors. I mean this is all of you, this is all of us. I mean the last thing we want is for, you know, if for some reason the city took over, it's \$1.50 in property taxes, which is six times more than what we pay. I mean right now, we have an option. I think the best thing to do is make, make a decision. It's hard, but I would definitely recommend Option number 1.

Acting Mayor Oyegbola: Mr. Mayor, I'd like to say something. Having seven Council members up here, I can understand Councilwoman Rogers, Councilman Diaz, Councilman Romero, and the rest of us, this decision is gonna be difficult. And the way I look at it as coming in, again, I know I've said this several times, as an intern, I've watched what the City has gone through. Right? I've watched, I've personally watched our Finance Director give slide after slide on how the City can be better, what options that we have, how can we overcome. So, coming in, this being my third year, being able to be in the black means a lot to me, to look at those numbers. Right? So, unfortunately, we all walked into a difficult situation. We, we all know that. We all know we have to make a tough decision for the residents and the businesses out there. No, we didn't come up with this issue, but all of us are gonna have to come up with a resolution together. For me as a business major, I would like to plan out, I would, I would prefer, and now I'm not gonna point fingers at, at previous administration, but I would prefer that there was some type of strategic plan down the line, which is what our Finance Director is trying to do for the future. You're looking at what is gonna benefit the City in the future right now, present tense, on, on what we're doing today, which would have helped us if they would have done that in the past, if you understand what I'm trying to say. If there was a strategic way to assist the City, but we also know that the City was going through so much. We walked into lawsuits. We walked into so many different hindrances that we had to come from under to even be where we're at right now in the black. So, what I'm saying is yes, we're gonna make a tough decision on this one. And let's not look at it as okay, we're burdening the residents, or let's not cry and say oh, we didn't, our cards weren't better for us. We

didn't, we didn't get the cards that we wanted dealt to us from previous administrations. Let's just make the decision that's best. Let's not look at, oh, the word "B" for bankruptcy, or, or who's gonna assist us. Let's just make the decision that we need to. And it's gonna be uncomfortable. And I'll be honest, I'll be the first one to tell you, when you have to look at those residents, when I walk into one of these businesses, or when I walk down the street and talk to one of these residents, it's hard to look at them and say you made that decision. But this is where we are, so we gotta do it. I just wanted to make that comment and ...

Councilwoman Rogers: Mr. ...

Acting Mayor Oyegbola: ... (inaudible).

Councilwoman Rogers: ... Mayor, I have a comment (inaudible). Just to say that with both proposals, it seems to me like of the seven Council members, there will only be one left in 2050 to handle all of it. Not any of us. That's a comment.

Councilman Diaz: I'll be here.

(Simultaneous conversation)

Mayor Teso: Yeah, we'll see how this mortality ...

Councilwoman Rogers: (Inaudible) ...

Mayor Teso: ... (inaudible) ...

Councilwoman Rogers: ... (inaudible).

Mayor Teso: ... work out.

Vice-Mayor Lopez: I've got a question, Mr. Mayor. Is there any financial cap on that Contingency Reserve Fund? So, like is there a cap to where we could only raise so much money on this fund or, or is it open to where we just continue pouring money in if we can?

Ms. Aguirre: Well, Mr. Mayor, Vice-Mayor, there is no cap on how much you can set it at, but it depends on how you create it. So, if you create it by adding more debt to Option 1 or 2, you might want to cap that 'cause it's gonna mean a higher payment year over year. Right? But if you utilize other forms of funding, such as CARES Fund, or General Fund, you know, just to put in there and create it just like you all created the, the Fund Balance Reserve Fund. There's no cap. You might wanna be also reasonable with it and analyze, you know, whether it's a good idea to build it so high, or leave it so low. I mean I think that you can analyze that year over year 'cause you might have other needs. So, ...

Vice-Mayor Lopez: And would ...

Ms. Aguirre: ... there's ...

Vice-Mayor Lopez: ... you be, ...

Ms. Aguirre: ... no limit.

Vice-Mayor Lopez: ... excuse me. And would you be able to transfer funds, if you needed 'em, out of that Contingency Fund to get you out of the financial mess that you're in?

Ms. Aguirre: So, yes, Mr. Mayor, Vice-Mayor. If you created a Contingency Reserve Fund, that would be built in the language of those bond covenants, okay, to indicate that that Contingency Reserve Fund is only to be used for instances of yes, making payments to Public Safety Retirement System.

Vice-Mayor Lopez: Thank you.

Councilman Diaz: I have a question. Regardless of which we choose, a Contingency Fund will be, how is it gonna be shown on the General ledger?

Ms. Aguirre: Mr. Mayor and Councilman Diaz, that's an excellent question. So, it would be represented on the budget as a Restricted Fund Balance as well, much like that \$600,000, you may recall, that was restricted. That's how it would be accounted for, both on the budget and (inaudible) the financial report.

Councilman Diaz: Thank you.

Ms. Aguirre: So, essentially, this opportunity, again, is to recap, keep it fresh in our mind because it is a really good opportunity. Option 1, Option 2, I think that we went over the pros and the cons. We also looked at, you know, what are your needs? Are they short-term, long-term? If you're looking for, at Option number 2, well, that's totally based on 6% bonding capacity. Maybe you might want to hold off on that a little bit and, you know, once, once things get a bit better, 'cause I know you all want to work on improving things here for the City. So, maybe down the line, you ask that question, but to provide something tangible. And use the 20% bonding capacity. Make it count. If you're gonna ask, make it count.

Councilwoman Rogers: I don't know. Mr. Mayor, is this an emergency since we're having another meeting next Tuesday?

Ms. Aguirre: So, Mr. Mayor, Council member Rogers, it's not an emergency. It is very important though. And so the purpose of this was, yes, to do the recap, have some discussion amongst you all, and get some direction only because then we could go back to our team of financial advisers and then let them know well, you know, out of the two options, Mayor and Council is leaning more toward Option 1 or Option 2, so then they can start working on ...

Mayor Teso: Right.

Ms. Aguirre: ... pulling more firm numbers and I can move onto these upcoming projects. I have to work on revenue projections and also on a five-year expenditure estimate for the General Fund going forward, making sure we account for everything we can possibly account for. Five-year, five-year model for revenues and expenditures just like I did for the 2019 refinance. So, there's a lot of work to do and there's also a lot of work on part, on the part of the financial advisors; pull those numbers, look for potential investors. You know, Mr. Reeder mentioned that he wants to look, first, at a private placement. So, there's quite a bit of work. However, like the Manager mentioned, should you all entertain or want to do Option number 2, the General Election in terms of planning and scheduling, is right around the corner. So, it's a bit short on time.

Mayor Teso: What ...

Ms. Aguirre: Not impossible, but it's a little bit short on time.

Mayor Teso: When would that be actually due? Do they have like a due date or something like that?

Ms. Aguirre: An election would have to be called in June.

Mayor Teso: In June.

Ms. Aguirre: In June. Yes.

Mayor Teso: That's pretty close.

Ms. Aguirre: In June. So, there's a lot of things to consider here. Yes, hopefully, we've been able to answer, you know, some of the questions that you had. Again, this isn't a final, but it's just to gather your guys', you know, direction; what are you leaning more towards, what do you think is more practical, especially in this time, too, the pandemic. We don't wanna miss an opportunity and, ...

Mayor Teso: Exactly.

Ms. Aguirre: ... of course, you know, lose on reducing the interest too. You can consider these options, refinances, or, you know, things like this in the future as well. Once the bonds are callable, do you want to refinance them? Do anything else? Do, consider options like this again.

Mayor Teso: Well, this is kind of a little bit out of the way, but I've been seeing some information saying that a lot of that Opportunity Zone funding may be improving in the fact that it may be addressed more at cities like ours than what they were. I think the original intent was, at least as I understood it, was to, you know, share funding with, you know, smaller cities that have problems and issues like that. But the actual use of the money went to a higher level, better performing type of a city or municipality. So, if, in fact, it does (inaudible) as what I've seen just recently, today, as a matter of fact, I saw some information on that, that it was, it looked like maybe they would be targeting cities that might have more issues, you know, they need to rebuild and all this, infrastructure, all that kind of thing. It might be coming our way in the next, next couple of years. So, that would be something that I would have to consider. I think more, very importantly, of course, is, you

know, the low interest rates that are available now, you know. We take advan-, obviously, Option 1, I mean either one, you know, is gonna have to look at that. And offhand, I, I, you know, to me, it seems like Option 1 is probably a more concrete one, you know, in terms of what it would be doing for us now. I don't know what's gonna be happening 10, 15, 20 years from now. I'm probably not part of the picture.

Acting Mayor Oyegbola: Mr. Mayor.

Mayor Teso: Yes?

Acting Mayor Oyegbola: I'm sorry, go ahead.

Mayor Teso: Go ahead.

Acting Mayor Oyegbola: (Inaudible).

Mayor Teso: No, no, go ahead.

Acting Mayor Oyegbola: No, I was just gonna add that I think it's excellent to have the questions and that the comments that you made but I also think that for us being a policy body of the City and going forward, this is why it's so important for each administration to plan for the future to, to strategize and, you know, to look at your goals and your plan. So it's great to have your financial goal, your short-term, your long-term, and that's been the policy body but, you know, I think every administration should be looking, you know, in the future and planning for the future, and consistently looking at it and not, and not take it whereas we have to come and make touch decisions for every option, but if you're constantly planning and constantly working with departments and you're constantly working and collaborating with jurisdictions outside of ours, then we won't have to wait until these times to make touch decisions. We'll automatically have it in our minds that, okay, this is what we plan to do, just like other things. So, this is where we are and we're gonna do what we need to do, but just speaking for us and administrations in the future, go ahead and plan and do what needs to be done.

Mayor Teso: Okay. I'd like to add something to that. And I agree with you with that strategic planning has to be done and hasn't.

Councilwoman Rogers: Mr. Mayor, ...

Mayor Teso: We've had strategic plans in the past and they've really never amounted to much. Nobody's ever done anything with them. And I think we, that, that would be the plan right there, you know. Follow the plans that's been developed, you know. Those things are so out of date now. You know what, you gotta do a new one. There's no way you can use the same old one. But, you know, it's just, so much out there.

Acting Mayor Oyegbola: Right. I mean especially when we have the finances right here ...

Mayor Teso: Yeah.

Acting Mayor Oyegbola: ... or other, other department heads who we can tap into that knowledge that, that is needed, ...

Mayor Teso: Right.

Acting Mayor Oyegbola: ... when we're doing those plans, so that was it, ...

Mayor Teso: Ms. Rogers.

Acting Mayor Oyegbola: ... sir.

Councilwoman Rogers: Yes, Mr. Mayor, just, I think maybe somebody could look up this, this thing that I, when Christina was at League of Towns and City, she's no longer there, but we had the 95 or 99 members of the City, Cities of Arizona and the number one with the 11.6% whatever, was the highest out of 95 cities. So, if you want to add another 5% to bring it up to close to 17%, I believe sincerely you're going to lose business. Amen.

Mayor Teso: So, in terms, I guess the, we've had quite a bit of discussion here, but in terms of direction that you would need, what, I mean we need some kind of timeframe, I think, and we need a, an idea of what, obviously, of what, which options maybe we prefer right now.

Ms. Aguirre: Yes. Basically, just directing staff to pursue whichever option looks more pleasing to you all, to pursue that option with our financial advisors.

Mayor Teso: Okay.

Councilwoman Rogers: Mr. Mayor, I would say more pleasing to people that would like to come in and be businesses in our City, that's the big thing (inaudible). You can't go higher than 95 or 99.

Mayor Teso: Mr. Romero.

Councilman Romero: Mr. Mayor, I would like to suggest that we ask our Financial Director what her idea or what her, what she thinks would be the better plan. She makes, she's the one that plays with dollars and pennies all day long. We don't. I don't even handle my checking account at home. So I'm quite sure that there's very few of us that do. She knows the money thing. She's the one that could tell us, hey, I think this is the way we ought to go. Get her opinion on it.

Mayor Teso: I think that's right. I know I'll go along with that.

Vice-Mayor Lopez: Go for it.

Ms. Aguirre: Okay. So, Mr. Mayor, members of the Council, if you, if I am going to give you my opinion, I think I am also going to side with the City Manager in saying that, yes, there's a long-term benefit with Option number 2, but short-term, really, I think Option number 1 is the best one. There's nothing that says that you can't issue revenue bonds for this type of debt and then try and refinance at a later date, or consider an Option number 2 at a later date. From my perspective, I think it's very important to keep our budget level, going forward, at least for the next couple years, okay? And absolutely, see what materializes with Opportunity Zones, see what materializes with incoming businesses. There's also, you know, mari-, the legalization of marijuana, okay, which could mean a lot of big dollars for the City. So, maybe if you are a little conservative and wait a little bit, yes, we can maintain, our budget's stabilized, I think we've been doing a really good job. So, maybe Option number 1 is the one to consider at this time. That is my opinion, Option 1.

Vice-Mayor Lopez: Thank you very much.

Mayor Teso: Thank you. Appreciate that.

(Background conversation)

Councilman Romero: Are we going to be doing a motion direction?

Mayor Teso: I believe so.

Vice-Mayor Lopez: Yes.

Councilman Romero: When will we be bringing that up?

Mayor Teso: Right now.

Councilman Romero: I make a motion we go with the Finance Director and go to Option 1.

Acting Mayor Oyegbola: Second.

Mayor Teso: Any discussion?

Councilwoman Rogers: Yes, Mr. Mayor, is that the one without the polls? The ...

Ms. Aguirre: Yes.

Councilwoman Rogers: Voting polls.

Ms. Aguirre: Yes, Mr. Mayor, Council member Rogers.

Councilwoman Rogers: Okay, thank you.

Councilman Romero: Only makes sense. She's the professional.

Mayor Teso: Hasn't steered us wrong yet, as far as I can tell. Okay. If there's no more discussion, we'll take the vote.

Mayor Teso: Mr. Romero.

Councilman Romero: Option A.

Mayor Teso: Ms. Rogers.

Councilwoman Rogers: Option 1. Aye.

Mayor Teso: Mr. Diaz.

Councilman Diaz: Aye.

Mayor Teso: Mr. Oyegbola.

Acting Mayor Oyegbola: Aye.

Mayor Teso: Mr. Lopez.

Vice-Mayor Lopez: Yes.

Mayor Teso: Aye. Motion carries.

Mayor Teso: That's enough direction?

Ms. Aguirre: Yes, thank you so much. Thank you, thank you all for sitting through all of this. I know it's a lot of information but, you know, it was worth going through it. Doesn't mean that you guys can't consider these type of options in the future, but to just get this part out of the way and continue our plan.

Mayor Teso: I think it's very helpful to go through this whole process.

Ms. Aguirre: Absolutely.

Mayor Teso: In terms of what, what, I noticed anyway, in terms of what, the information that came out today, you know, and, and the timeframes and all of that, you know, it's a, they're, they're important. There's no doubt they're important. But regardless if we go Option 2 or Option 1, the long-term, short-term, you know, I'm not sure that we'll be gaining that much by not making a decision now.

Ms. Aguirre: Correct. Thank you.

Mayor Teso: Thank you. Moving onto number 11.

ITEM #11 – RESOLUTION NO. 21-03 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, RATIFYING, APPROVING, AND ADOPTING AN EXTENSION OF THE INTERGOVERNMENTAL AGREEMENT (IGA) WITH PIMA COUNTY FOR THE MANAGEMENT, IMPLEMENTATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

Ms. Moreno: Thank you, Mayor. As you read out loud, that's the item and the next two items are regarding CDBG and Lourdes can provide you with a summary of what they entail.

Mayor Teso: Okay.

Ms. Aguirre: Yes, thank you, City Manager. So, this has to do with the prior year's CDBG contract. There was two line items in there totaling \$65,000 that we've been approved an extension on. That's \$25,000 in the NRSA (ph), for your strategic area plan and \$40,000 for JVYC for (inaudible) upgrade. Okay? So, with that said, the end date for that money would have been last September, September 30th. We were allowed to extend it. Our request was honored and it was just passed by the Board of Supervisors, Pima County Board of Supervisors, so that extended through next year. I'm sorry, not, this year September 2021. Okay. We have a few more months to utilize the funds.

Mayor Teso: Okay. Anybody have any questions for Lourdes?

(No questions from the Council)

Mayor Teso: Alright. Do we have a motion?

Vice-Mayor Lopez: Mr. Mayor, I'd like to see Resolution be approved, 21-03, of the Mayor and Council of the City of South Tucson, Arizona, ratifying, approving, and adopting an extension of the Intergovernmental Agreement (IGA) with Pima County for the management, implementation of the Community Development Block Grant Program, the CDBG.

Councilwoman Rogers: Second.

Councilman Romero: Question, Mr. Mayor. Is the resolution 11 and 12, basically the same thing?

Ms. Aguirre: I'm sorry?

Mayor Teso: (Inaudible) what's the difference between 11 and 12? Items.

Ms. Aguirre: Oh, items. Mr. Mayor and Councilman Romero, ...

Mayor Teso: I think.

Ms. Aguirre: ... sorry, I didn't understand. You were looking at the item number. No, they're two completely different ones.

Councilman Romero: Oh, okay.

Ms. Aguirre: So, the one that you guys are looking at right now have to do with money from last ...

Mayor Teso: Right.

Ms. Aguirre: ... award ...

Councilman Romero: Oh, okay.

Ms. Aguirre: ... that we're extending.

Councilman Romero: Okay.

Councilwoman Rogers: 03, isn't it? Item 03, or the resolution.

Ms. Aguirre: Resolution 21-03.

Councilwoman Rogers: And the next one will be 04.

Mayor Teso: Okay. Got it?

Councilman Romero: Aye.

Mayor Teso: Okay.

(Background conversation)

Ms. Aguirre: Mr. Mayor, Acting Mayor Oyegbola, just for referenced, the, both resolutions, the language is very, very similar, except for one reference to the extension and the other one, the final version.

Mayor Teso: Okay.

Ms. Aguirre: They look almost identical.

Mayor Teso: Okay. Going onto a vote.

Mayor Teso: Mr. Romero.

Councilman Romero: Aye.

Mayor Teso: Ms. Rogers.

Councilwoman Rogers: Aye.

Mayor Teso: Mr. Diaz.

Councilman Diaz: Aye.

Mayor Teso: Mr. Oyegbola.

Acting Mayor Oyegbola: Aye.

Mayor Teso: Mr. Lopez.

Vice-Mayor Lopez: Yes.

Mayor Teso: Aye. Motion carries.

ITEM #12 – RESOLUTION NO. 21-04 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, RATIFYING, APPROVING, AND ADOPTING THE FINAL AND REVISED VERSION OF THE INTERGOVERNMENTAL AGREEMENT (IGA) WITH PIMA COUNTY FOR THE MANAGEMENT AND IMPLEMENTATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

Mayor Teso: Miss Lourdes.

Ms. Aguirre: Okay. Thank you. Okay. This one is just to approve the final version of the IGA for the current funding award. Now, it was my mistake in bringing an earlier version before you. But there is a final version. And essentially, I'm so sorry about that. Essentially, I listed all of the, the revisions, the changes in the packet. You'll probably notice that it consolidated Section, the Section of the IGA, 7.0 and 8.0 for insurance and indemnification, from like three pages down to a few paragraphs. The essence of all that is in those three paragraphs. There was one minor change as pertained to, under Section 7.0, as pertains to the commercial general liability. The draft that we brought before you was at two million. This one is at one million, which is good, it's okay. It's consistent with our insurance level. All other coverage remains the same at one million. Other than that, there was a couple of just formatting changes on the scope of work, Exhibit A. And I decided to include, for your review, the red line, or the blue line version. Just so you guys can see all the changes. And it was basically inserting the word "sub recipient" in there for South Tucson. Very, very minor changes, which I'm sure you all had an opportunity to review. With that said, I think that this item is gonna be going for approval with the Board of Supervisors who had approved it once already before. So, this is, yeah, that was done back in February, February 16th. But this, this approves the final version.

Mayor Teso: Okay.

Ms. Aguirre: There's no change in the funding level. Just language.

Mayor Teso: Thank you. Anybody have any questions?

Councilman Diaz: I have (inaudible). Really, I appreciate all the work you do and all the stuff on the (inaudible). I would sure like to have public input, especially on these grants. There's, you know, advertisement is lacking. Purpose of grant is not really stipulated. Even though it might be implied in there, there's no specific, you know, direction for the grant for the community. I'd like to, you know, the next time we get one of these, it be done that way, please.

Ms. Aguirre: Oh, okay, okay. Okay. Mr. Mayor, Councilman Diaz, I believe I, I am understanding that for the preparation of the next application.

Councilman Diaz: Right, yeah.

Ms. Aguirre: Okay. To include some, some participation, ...

Councilman Diaz: (Inaudible) ...

Ms. Aguirre: ... some more discussion, input, things of that nature. Okay. Well, maybe that's something for the next, for the person who actually writes these applications to consider. We'll do our part in communicating that. Right, City Manager?

Councilman Diaz: Thank you.

Mayor Teso: Okay. If we don't have any more questions, do we have a motion?

Councilwoman Rogers: I so move to adjourn this evening's meeting.

(Simultaneous conversation)

Mayor Teso: We need a motion on 21-04.

Councilman Romero: So moved.

Councilwoman Rogers: Second.

(Simultaneous conversation)

Mayor Teso: Did we have a second on that?

Acting Mayor Oyegbola: Yeah, Rita second.

Mayor Teso: Hm?

Acting Mayor Oyegbola: Council member Rogers.

Mayor Teso: Oh, I'm sorry. Okay. If there's no further discussion, then we go to Roll Call.

Mayor Teso: Mr. Romero.

Councilman Romero: Aye.

Mayor Teso: Ms. Rogers.

Councilwoman Rogers: Aye.

Mayor Teso: Mr. Diaz.

Councilman Diaz: Aye.

Mayor Teso: Mr. Oyegbola.

Acting Mayor Oyegbola: Aye.

Mayor Teso: Mr. Lopez.

Vice-Mayor Lopez: Yes.

Mayor Teso: Aye. Motion carries.

ITEM #09 – ADJOURNMENT

Mayor Teso: Do we have a motion to adjourn?

Councilwoman Rogers: I motion to adjourn.

Vice-Mayor Lopez: Second.

Mayor Teso: Mr. Romero.

Councilman Romero: Aye.

Mayor Teso: Ms. Rogers.

Councilwoman Rogers: Aye.

Mayor Teso: Mr. Diaz.

Councilman Diaz: Aye.

Mayor Teso: Mr. Oyegbola.

Acting Mayor Oyegbola: Aye.

Mayor Teso: Mr. Lopez.

Vice-Mayor Lopez: Yes.

Mayor Teso: Aye. Motion carries. We are adjourned.

The meeting adjourned at 8:30 p.m.

Mayor

ATTEST:

Veronica Moreno, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the City Council of South Tucson, Arizona, held on the 16th day of March, 2021. I further certify the meeting was duly called and a quorum was present.

Dated this _____ day of _____, 2021.

Veronica Moreno, City Clerk